

RECREATIONAL TRAILS PROGRAM

A recreational trail development program funded by the Safe, Accountable, Flexible, Efficient Transportation Equity Act-A Legacy for Users (SAFETEA-LU)

FOREWORD

These guidelines explain the administration of the "Recreational Trails Program." If you have an older version of the RTP manual, please recycle it and replace it with this manual. The Alabama Department of Economic and Community Affairs (ADECA) administers the monies available from Alabama's share of funds from TEA-21 to assist local units of government and not-for-profit organizations develop recreational trail facilities for public use.

PLEASE NOTE THAT THIS PROGRAM MANUAL IS INCORPORATED INTO THE RTP AGREEMENT BETWEEN THE STATE AND THE PROJECT SPONSOR. Directions for preparing the application are found in Chapter 2 of the guidelines. Please refer to the application checklist included in the application packet for assistance in submission of all required items. The manual and application packet can also be viewed from our website at www.adeca.alabama.gov. Applicants should carefully review the entire Recreational Trails Program Guidelines Manual, paying particular attention to:

Chapter 1: The Recreational Trails Program. Consult this chapter for a summary of grant information as well as to determine eligibility.

Chapter 2: Rating Criteria. The rating criteria are the most important component of the application! Answer each criteria element thoroughly and include documentation to support your replies. Refer to the application packet for the list of rating criteria.

Chapters 5 & 6: Land Acquisition and Construction Procedures. If acquiring land, refer to the Uniform Appraisal Standards for Federal Land Acquisitions on the web at www.usdoj.gov/enrd/land-ack.

If you have any questions, please contact the ADECA Recreation Programs staff. One (1) original and two (2) copies of your application must be completed in full, clearly postmarked no later than September 2, 2008, and sent to the ADECA. If you choose to mail on September 2, we recommend that you request a certificate of mailing from your post office. If you plan to hand deliver the application it needs to be at our office by 5:00 PM on September 2, 2008.

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Chapter 1

THE RECREATIONAL TRAILS PROGRAM

The Recreational Trails Program in Alabama

The Recreational Trails Program (RTP) is intended to provide funds to states for trails and trail related projects. This program gives the State of Alabama the opportunity to initiate projects to benefit all kinds of motorized and non-motorized trail users. The RTP is managed by the U.S. Department of Transportation through the Federal Highway Administration (FHWA), in consultation with the Department of the Interior. The Alabama Department of Economic and Community Affairs, Recreation Programs, has been assigned to administer the program for the State.

Recreational Trails Program funding represents a portion of the revenue received by the Federal Highway Trust Fund from the federal motor fuel excise tax paid by users of off-road recreational vehicles such as snowmobiles, off-road motorcycles, all-terrain vehicles, and off-road light trucks. These monies were made available from Alabama's share of funds from the Safe, Accountable, Flexible, Efficient Transportation Equity Act-A Legacy for Users (SAFETEA-LU). States are required to distribute monies to motorized uses (30%), non-motorized uses (30%), and diverse trail uses (40%). Multi-use trails are strongly encouraged.

In order for Alabama to be eligible for these funds, a Trails Advisory Board was established. The Trails Advisory Board is comprised of individuals representing different trail interest groups including: hikers, sportsmen and women, motorcyclists, bicyclists, mountain bicyclists, ATV riders, four wheel drive riders, equestrians, trail users with disabilities, water trail users, environmental groups, and trail support groups.

Eligible Participants

Eligible applicants include federal and state agencies, local governments and private sector organizations with a public co-sponsor.

Eligible Projects

Eligible projects include applications for development of urban trail linkages near homes and workplaces. This may include trail linkages to schools, parks, and existing trails. Maintenance of existing recreational trails and restoration of areas damaged by usage of recreational trails and back country terrain are eligible. The purchase of trail maintenance equipment is eligible, with certain restrictions.

The development of trail-side and trail-head facilities that meet goals identified by the National Recreational Trails Advisory Committee are eligible. This includes trail components or associated facilities that serve the purpose and safe use of the recreational trail and may include, but are not limited to drainage, crossings, stabilization, parking, signage, controls, shelters, water, sanitary, and access facilities.

Projects that include features that facilitate the access and use of trails by persons with disabilities are allowable and encouraged. The acquisition of easements for trails or corridors identified in a state trail plan are eligible. Or, the acquisition of fee simple title to property from a willing seller.

The construction of new trails on state, county, municipal, or private lands are eligible when a recreational need for construction is identified.

Other permissible activities that require approval by a State Comprehensive Outdoor Recreation Plan include construction of new trails crossing federal lands, when construction is approved by the administering agency of the state, and the federal agency or agencies charged with management of all impacted lands. Approval of projects of this nature are contingent upon compliance by the federal agency with all applicable laws.

Trails developed with RTP funds must be readily accessible to and usable by persons with disabilities. They also must be developed off of all regularly maintained roadways, sidewalks and alleys.

Project costs must be commensurate with benefits. Development on easements will be acceptable if the easement is for a minimum of 25 years and provides public access. The grant applicant must agree to keep the project site in use as a public trail for a minimum of 25 years. Refer to Chapter 6 for details about development.

Due to the variety of project proposals, it is possible that while a proposed project may satisfy the eligibility and rating criteria, the completed project may not provide adequate public trail use opportunities. Therefore, the ADECA reserves the right to disqualify proposals in which:

1. Costs exceed the public benefits.
2. The site requires intensive and high cost management.
3. Fees charged at the site are excessively high when compared to fees charged at similar facilities.
4. Any other situations where the public benefit will not justify the federal investment.
5. Adequate control and tenure of property is not provided.

This list is not inclusive and other reasons for disqualification may be determined as projects are reviewed. When a project is disqualified for any of the above mentioned reasons, the project sponsor will be notified in writing.

Grant Amounts

The Alabama Recreational Trails Program is a reimbursable grant with 80% federal share and 20% matching assistance provided for eligible projects. Applicants may request a maximum grant amount of \$125,000 (\$100,000 federal share).

Supplemental Grant Rounds

If there are more funds available than requested by applicants, ADECA may open a supplemental grant round. Ordinarily, an agency may submit only one application per year; however, applicants may submit an additional application during a supplemental round.

Local Share

At the time of application the project sponsor must have at least 20% of the total project cost available. The local share may include tax sources (appropriations), bond issues, Community Development Funds, Farmers Home Administration Loans, Rural Development Loans, or force account contributions. The donated value of land, cash, labor, equipment and materials may also be used. Chapter 2 contains more information on the local match for a grant.

Reimbursement

The project sponsor will not receive a cash grant at the time of project approval. Instead, the sponsor must pay the bills and be reimbursed for a maximum of 80% of the expenses incurred for the project according to the terms of the project agreement. Reimbursement requests may be made periodically during the project period. Land donations will be credited towards the match of the sponsor's share of the project. Billing procedures are explained further in Chapter 7.

Project Selection Process

If there are more requests for funding than available funds in a given year, the eligible applications will be funded in priority order based on an objective point ranking selection process. This process is explained in detail in Chapter 2.

Dates of Eligible Contributions and Expenses

To be eligible for matching assistance, project costs must be incurred after the federal project approval date. The only costs incurred prior to federal project approval that are eligible for retroactive reimbursement are architectural/engineering, archaeological literature search, and grant application preparation fees that were included as pre-agreement costs in the grant application. Donations of equipment, labor, and materials must be contributed after federal grant approval. Cash contributions may be received at any time.

Chapter 2

WRITING THE GRANT APPLICATION

The Grant Application

This manual provides the instructions to apply for a Recreational Trails Program grant and is available on the web at www.adeca.alabama.gov. A copy of the application packet can also be found in on our web site. Hard copies are available upon request. Grant applications are due by September 1st of each year or as otherwise determined by Recreation Programs. This chapter includes instructions for filling out the application forms, plus a description of the various attachments that must be submitted with the application. Applicants are encouraged to call the grants staff about their prospective project before they apply and/or if questions arise in preparing an application beyond the information in these guidelines.

Application Form

All items on the standard application form must be answered.

Cost Breakdown

One copy of a separate detailed cost breakdown must be submitted with each copy of the project application. The cost breakdown should include the estimated value of acreage being acquired (if applicable) and all development for which reimbursement is being requested. The total project cost shown on the cost breakdown must match the figure listed on the project Application Form.

Cost estimates should be as accurate as possible. Your project could take as long as two years to complete, so your cost estimates should account for inflation. Where appropriate, unit costs should be included in the application.

Certification of Funds

In order for ADECA Recreation Programs to consider an application for grant approval, the applicant must have its 20% share of the project costs available for the project at the time the application is submitted. The type of documentation varies according to the source of funds as explained below.

1. Appropriations, Bond Issues, Other Federal Funds, and Force Account Contributions. Each copy of the application must include a statement from the applicant that certifies these funds will be available in the applicant's budget when the project will take place.

This statement may simply be in letter form addressed to ADECA Recreation Programs and certified by the applicant's financial officer. The letter must state exactly how much is available and its source. At least 5% of the total project cost must be from non-federal sources.

2. Donations of Cash, Labor, Equipment and Materials. If the applicant is to receive gifts of cash, labor, equipment, or materials from a private individual, other governmental agency, private organization or business, a letter of intent to donate from each donor must accompany the application. The value of each gift must be estimated at the time of application.

- a. Cash gifts are counted as the donor's stated amount.
- b. For general unskilled labor donations, the applicant needs to provide a statement of the wage rate paid to the entry level municipal laborers. This rate is then applied to the pledged number of hours to be contributed. If donors of labor are employed in a skilled construction trade, the time spent doing their particular trade on the project may be valued at their employment wage rate. Either their employers or they (if self employed) need to verify their rate per hour on company letterhead. Labor contributed by another public agency would be valued at the rate of pay for the employees who work on the project.
- c. Major construction equipment use rates may be established according to the procedures referred to in Chapter 6.
- d. Materials may be valued by the lower of at least two quotes from commercial suppliers of similar items.

Program Narrative

The Program Narrative (Project Selection Criteria, page 10 in the application packet) submitted with the application should be written in narrative form and include the following elements.

1. Project Description. Indicate in detail the type of development proposed, the method of developing the facilities as described in Chapter 6, and the type of users expected (inner city, weekend, youth, senior citizens, etc.), giving as much specific information about the project as possible, including:

- a. Needs assessment
- b. Objective of the project
- c. Results or benefits to the public
- d. Why the project is the best alternative

2. Pre-agreement Costs. The only types of costs which may be incurred prior to federal approval of the grant are preparation of the grant application, archaeological investigations, and architectural and engineering services. If the applicant has signed a contract with an architectural and engineering firm or incurred other preliminary expenses, include the following information:

- a. Name of firm performing the work and contact person
- b. Address and telephone number of firm
- c. Date and amount of the contract
- d. Amount of expenses incurred or paid up to the date of application

NOTE: If the applicant signs a contract for architectural or engineering work after submitting the application, but prior to federal approval of the project, the information requested above should be submitted to ADECA Recreation Programs. Architectural and/or engineering fees are reimbursable up to 10% of the total grant amount. These guidelines are established so that grant funds are used primarily for on-the-ground results.

3. Accessibility. Describe how the project site and development will be designed, constructed and maintained for people with disabilities, in conformance with the Architectural Barriers Act of 1968, Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act of 1990. Site and building plans submitted with the project should illustrate accessibility. (A further description of the accessibility requirements can be found in Chapters 4 and 6.)

4. Property Control. When did the applicant purchase the property being developed in this project? If purchased after September 2, 1971, describe the provisions made for compliance with the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act, P.L. 91-646.

5. Federal Assistance. Describe other federal assistance that has been given, is pending or promised for any work within the boundaries of the park or recreational site affected by this request. Specifically, the following information is needed:

- a. Federal Domestic Assistance Catalogue number
- b. Type of assistance
- c. Amount of funding
- d. Relationship to this request

6. Life of Facility. The applicant must estimate the useful life of each facility being developed in the project. The estimate should be no less than 25 years and must meet the approval of ADECA Recreation Programs. Project agreements for operation, maintenance and public use will be written for this period of time.

Public Participation

With increased public awareness and concern for government directions and spending, it has become more apparent that there must be public input beginning with the initial planning of a project. Applicants must actively solicit opinions and suggestions, especially from adjacent land owners, for potential projects. The project sponsor must submit evidence to prove public input was actively sought as part of the project application. This must be in the form of a public meeting/hearing and may also include a special questionnaire.

1. Public Meeting/Hearing. A news article or hearing minutes discussing the project and giving the date(s) of the special meeting(s) should be enclosed with a brief description of the meeting, including the number of persons attending, and their general comments, both

positive and negative. If the project involves construction in the flood plain, this must be clearly stated in the news article and/or release.

2. Special Questionnaire. In this case, the methodology used to construct, distribute and collect the results, as well as final tabulation of the questionnaire responses should be included.

Environmental Analysis

The environmental effects of a project submitted for federal assistance are evaluated through the preparation of environmental data on the intended action. In 1969, the National Environmental Policy Act was passed to ensure a uniform national policy of evaluating the environmental impacts of federal and federally funded projects. The Act requires the preparation of an Environmental Impact Statement for federally funded projects which may result in significant adverse effects to the environment. All projects must have some basic environmental data to determine the impact of the proposed action. The information supplied in the Environmental Analysis and the DNR environmental review will determine whether a detailed Environmental Impact Statement (EIS) needs to be prepared. In most cases, trail projects have minimal environmental impact and usually receive a Categorical Exclusion (CE).

All project applications must be accompanied by an Environmental Assessment which includes:

1. The proposed action
2. Detailed description of all alternatives to the proposed action
3. Environmental impacts of the proposed action
4. Listing of agencies and persons consulted

It is very important the documentation and information provided is accurate and objective. Deceptive analysis of potential impacts could lead to the withdrawal of federal funds from the project, repayment of already reimbursed funds, or court action against the project sponsor. The following suggestions will assist in the preparation of the report:

1. Keep the environmental information free of project justification and personal bias. The project presumably is fully justified elsewhere in the documentation.
2. Do not rely on generalities. The specific facts are essential. General statements and all allegations should be supported and quantified where possible.
3. Liberal use of maps, sketches, and related graphics to help explain the project area. Pictures (particularly aerial photographs) reduce lengthy narrative.
4. Writing style should be kept clear and concise. Adverse impacts should be addressed as fairly as the beneficial impacts.

The Environmental Assessment Form in the Application Package. The directions are broad and cover all types of projects and in most cases the answers to the various elements will be short.

Location Map

Each application must include copies of a U.S.G.S. topographic map (quad map) which has the boundaries of the project site clearly marked. Indicate the map scale and name. Also, detailed driving directions to your project site from the nearest city or town should be provided.

Site and Building Plans

Applications should be accompanied by copies of a preliminary/conceptual site design. These plans should be drawn to scale and should be of sufficient detail to show how the facility is, or will be, constructed to accommodate persons with disabilities.

Also, include on this plan or a separate plan, the exterior boundaries of the site, all permanent or temporary easements, utility rights-of-way, scenic preservation, etc. Enclose copies of any easement agreements.

Photographs

Clear photos keyed to a site plan of the project area should be submitted. Be sure to include photos of all existing buildings, structures, recreation facilities and natural site features. A 360-degree view of the project should be easily attainable from the photos and map. There must be a complete set of photos for each application copy.

Chapter 3

PROJECT APPROVAL AND AMENDMENTS

Project Approval

The applicant will be notified in writing when final project approval has been received from the Federal Highway Administration. With the letter of approval, the sponsor will be sent a Project Agreement/ Contract to be signed. The sponsor will be responsible for developing, and/or maintaining the project site as outlined in the Project Agreement and all documents incorporated into the agreement for the Recreational Trails Program.

Project Agreement

The Agreement will provide information required for project correspondence and will describe the responsibilities of the State and of the sponsoring agency. It will include:

1. The organization with whom the project agreement was made.
2. A project number given for identification purposes.
3. The project title to be used on all project correspondence.
4. The date when the Federal Highway Administration approved the project. Any work begun before approval, other than previously identified as pre-agreement costs, is ineligible.
5. The date of project expiration.
6. The project scope, which identifies the elements included in the project proposal as approved by the federal agency. Only those items will be eligible for reimbursement. If the project sponsor needs to make revisions, the state project officer should be contacted before those revisions are made. Federal/state approval must be granted before revised work can be started if reimbursement is to be requested.
7. The total cost of the project, the project sponsor's share and federal grant share. The federal share will not exceed 80% of the total project cost.
8. Specific elements incorporated into the project agreement, such as the project application, all application attachments, this program manual, and other special agreement provisions outlined by the Federal Highway Administration and the Alabama Department of Economic and Community Affairs.

9. The Project Agreement must be signed by the applicant's Chief Elected Official and the director of the Alabama Department of Economic and Community Affairs.

After Federal Approval

After all of these requirements are met and the Federal Highway Administration has cleared the project, the Applicant can acquire property, advertise for bid, sign contracts, and start construction. Donations of materials, equipment and labor for the project may be accepted after the grant is approved. Cash may be received both before and after federal approval. Refer to the acquisition guidelines in Chapter 5 and the construction guidelines in Chapter 6 for further information on how to proceed.

Progress billings may be submitted after the project is federally approved. Chapter 7 explains billing procedures and the items needed before federal assistance is reimbursed to the applicant.

During the project period, ADECA Recreation Programs staff will make periodic inspections to ensure the development is in accord with the project application. A final inspection is scheduled before final reimbursement and close-out of the project is done.

If changes occur or problems are encountered during the project period, ADECA must be contacted immediately. As indicated previously, changes may result in a need to amend the project in order to ensure full federal assistance for the project.

Amendments

During the project period, various situations may result in changes or deviations from the Project Agreement. An amendment is necessary to add to, or alter the signed agreement. Changes that may necessitate an amendment are increases or decreases in the grant amount, project scope changes, or an extension of the project period.

Changes in Project Scope

Only those items approved for the project are eligible for federal assistance. Similarly, facilities must be constructed in the same location as designated on the site plan and according to the design plans submitted with the application. Due to unforeseen changes in project costs or revisions in the plans for the facility, certain items may have to be added or deleted from the project after it is approved. These changes may require submission to the Federal Government for approval. In the case of adding an item to the project, construction on that item cannot begin until the amendment is approved. The amount of federal assistance specified on the Project Agreement is the maximum amount reserved for that particular project. Costs over this amount have to be paid by the applicant.

All changes in project scope should be in accordance with the intent of the original application, and must be justifiable. The need for the change must be documented by a letter to ADECA Recreation Programs, accompanied by revised cost estimates, construction plans and maps.

Project Period Extensions

All acquisition and development must take place within the project period, which is identified in the Project Agreement. The Agreement is sent to the project sponsor after the project has received Federal approval. For most projects, the target date for project completion will be based on a two year project period. The project sponsor is encouraged to complete the project as soon as possible. Inflation can add a 5 (five) percent cost increase each year.

If the project cannot be completed during the period identified on the Agreement, a request may be submitted for a time extension. The request must justify why the project cannot be completed before the expiration date. This justification should include a time schedule for completing the remaining items. Work performed after the project has expired will not be eligible for federal assistance. Final payments for work done during the project period can be made up to 60 (sixty) days after the project has expired. These payments should specify the work had been completed before the project expired.

Submission of an Amendment Request

The sponsoring agency initiates the amendment by submitting a request for the changes to ADECA Recreation Programs. This request should include all project revisions desired, including cost estimates, maps or design plans, and justification of the need for the changes. It is recommended an ADECA Recreation Programs project staff member be contacted prior to the submission of the amendment request. The staff member will be able to provide advice on the feasibility of an amendment approval.

An amendment for a change in project scope can be requested anytime prior to the construction of the added item or acquisition of the added tract. An amendment for an extension of time should be submitted to ADECA Recreation Programs 45 (forty-five) days before the project is scheduled to expire. It is essential that amendment requests be kept to a minimum. Amendments are used to cover items that could not be anticipated in the original project. Major deviations from the original project will not be accepted. It is the responsibility of the project sponsor to thoroughly determine the type of project prior to submission and, upon approval, carry through with that project.

Project Completion

Upon notification by the project sponsor that a project has been completed, ADECA Recreation Programs staff will conduct a final inspection. The Federal agency may also make a final inspection, but this inspection may not take place until several months or years later. If the project has been completed in accord with the Project Agreement, the final billing can be processed. Certain additional documentation will be needed for the final billing as indicated in Chapters 7 and 8.

In order for a project to be considered completed and ready for final billing, it should be submitted within 60 (sixty) days of the completion of the project or expiration date, whichever comes first. This procedure will enable both the applicant and ADECA

Recreation Programs to complete the final project data and terminate administrative procedures as soon as possible. The Applicant's long-term obligations regarding project sites are explained in Chapter 8.

Chapter 4

FEDERAL AND STATE COMPLIANCE

Assurance of Compliance

The Assurance of Compliance portion of this chapter is divided into two major parts. Part I—Definitions, gives the definitions of the significant terms used throughout the assurances. Part II—Assurances, is divided into sections based on the nature of the compliance requirements. The assurances are in the order that they appear on the Assurance of Compliance form. These assurances are related to the acquisition, development, operation, and maintenance of a property for public use. The assurances incorporate the responsibilities for nondiscriminatory practices, state and federal regulations for procurement and construction, project administration, record maintenance, eligible costs, and many other requirements.

The assurances are outlined here to give the sponsor a better working knowledge of the requirements of the program. These “Assurances” are an integral part of the Project Agreement and must be followed as outlined. Questions concerning compliance with the “Assurances” should be directed to the state project officer.

Part I - Definitions

1. The term “Applicant” as used herein means the organization which submitted the application for federal assistance and which is a party to the project agreement, and to whom federal funds will be transferred pursuant to this agreement. Wherever a term, condition, obligation, or requirement refers to the Applicant, such term, condition, obligation, or requirement shall also apply to its assignees and successors or local units of government responsible for the establishment of the Applicant.
2. The term “Federal agency” as used herein means the Federal Highway Administration of the United States Department of Transportation.
3. The term “State agency” as used herein means the Alabama Department of Economic and Community Affairs (ADECA). Recreation Programs is part of ADECA.
4. The term “Guidelines” as used herein means the Guidelines for the "Recreational Trails Program".
5. The term “application” as used herein means the application for federal assistance from the RTP and all associated documents as described in the guidelines.

6. The term “agreement” as used herein means the project agreement between the Applicant and State agency.

7. The term “project” as used herein means a single project, a project element or project stage which is subject to the project agreement.

Part II – Assurances

1. Authority and Application

The Applicant is legally established under current Alabama law and possesses the authority to apply for the grant.

The Applicant has adopted or passed a resolution, motion or similar action, authorizing the filing of the application, including all understandings and assurances contained herein, and directing and authorizing the person identified as the official representative of the Applicant to act in connection with the application and to provide such additional information as may be required. The Application for Federal Assistance and associated documents are by this reference made a part of the agreement.

The Applicant has the ability to and will operate and maintain the property described in the project application and will make the site and or facilities available to the general public during reasonable hours.

The Applicant has sufficient funds to finance the non-federal share of the costs for the project. Upon project completion, the Applicant will make sufficient funds available to assure effective operation and maintenance of the facilities developed in the project to be consistent with the Safe, Accountable, Flexible, Efficient Transportation Equity Act (SAFETEA-LU), the rules and regulations of the Federal Highway Administration and ADECA, and other federal, state and local regulations for such facilities.

The Applicant agrees to comply with all requirements imposed by the SAFETEA-LU, the Federal Highway Administration and ADECA concerning special requirements of law, program requirements, and other administrative requirements and to impose those responsibilities on any designated person(s) to carry out the terms of the project agreement on behalf of the Applicant.

2. Property Control

The Applicant ensures that the project site is currently under the control and tenure of the State or the Applicant and that the Applicant has the ability to and will operate and maintain the site as prescribed by applicable federal, state and local standards regarding such facilities. The Applicant agrees that it will not dispose of or otherwise encumber its title or other interest in the site and facilities without the prior approval of ADECA and the Federal Highway Administration during the period of federal interest or while the Federal Government holds bonds, whichever is longer.

The Applicant will notify ADECA, in advance, of any proposals to use the property for purposes other than those described in the project application and agreement.

If the project includes renovation or construction of facilities with federal assistance, the facilities must remain available for public use for at least 25 (twenty-five) years.

If the project includes acquisition of land with federal assistance the land purchased must remain in public trail use for perpetuity.

When the site is owned by the State, the Applicant will obtain an agreement, lease or easement from the State authorizing the Agency to develop, operate, and maintain the site.

3. Fees

Except for general park entry fees, any fees charged for the use of a site developed with federal assistance, may only be used for the operation and maintenance of the funded facilities. Any additional fees or fee charges will require ADECA approval.

4. Project Execution

The Applicant agrees that construction will commence within 180 (one hundred and eighty) days after receipt of notification that funds have been approved, and will be completed with reasonable diligence within the project agreement period. The project period shall begin with the date of approval of the project agreement or the effective date of a waiver and shall terminate at the end of the stated or amended project period unless the project is completed or terminated sooner, in which event the project period shall end on the date of completion or termination.

The Applicant agrees to submit to the State for prior approval any changes which may alter the cost of the project, use of the space, the functional layout, completion period, or project scope.

The Applicant shall furnish progress reports and other such information as the State or Federal agencies may require.

The Applicant shall bring the project to a point of usefulness, agreed upon by the Federal Highway Administration, ADECA and the Applicant in the event the project covered by the project agreement cannot be completed in accordance with the plans and specifications approved for the project.

The Applicant shall use any funds received from the United States under the terms of this agreement solely for the project or project stage described in the agreement.

5. Construction Contracts

The Applicant will not enter into a contract for the project until grant requirements concerning construction contracts have been met.

The Applicant will provide and maintain competent and adequate architectural/engineering supervision and inspection at the construction site to ensure that the completed work conforms to the approved plans and specifications and is safe for public use. The Applicant shall secure completion of the work in accordance with the approved construction plans and

specifications, and shall secure compliance with all applicable federal, state and local laws and regulations.

The Applicant will ensure that contractors will comply with nondiscrimination and those laws related to disabled accommodations, and will be responsible for conducting inspections to ensure compliance with these specifications by the contractor.

The Applicant will comply with all applicable federal and state laws concerning public works and procurement. When federal, state, or local laws differ, in relationship to the project, the more strict regulation shall be used unless otherwise authorized by the State or Federal agency.

Office of Management & Budget Circular A-102

The Applicant will comply with the Competitive Bidding and Construction Contract Requirements as outlined in the Office of Management and Budget (OMB) Circular A-102, Attachment O which includes compliance with the following:

(1) Contracts for construction in which state bidding regulations require projects sponsors to let bids shall be awarded through a process of competitive bidding involving formal advertising, with adequate purchase description, sealed bids, and public opening. Copies of all advertisements, bids, and a copy of the contract shall be retained for inspection by the State.

(2) The Applicant shall inform all bidders on contracts for construction that federal funds are being used to assist in construction.

(3) Written change orders shall be issued for all necessary changes in the facility being constructed under contracts. Such change orders shall be made a part of the project file and should be kept available for audit.

Contract Work Hours and Safety Standards Act

The Applicant will comply with the provisions of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by the Department of Labor Regulations (29 CFR, Part 5). Under Section 103, of the Act, each contractor is required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided the worker is compensated at a rate of not less than 1-1/2 times the base rate of pay for all hours worked in excess of 40 hours in the work week. (Revised under the Department of Defense Authorization Act of 1986, P.L. No. 99-145.)

Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his or her health and safety as determined under construction, safety and health standards promulgated by the Secretary of Labor. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

Copeland "Anti-Kickback" Act

The Applicant shall include in its contracts for construction a provision for compliance with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented by Department of Labor Regulations (29 CFR, Part 3).

This Act states that each contractor or subcontractor shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. The Agency must report all suspected or reported violations to the State and Federal agencies.

Stevens Amendment to the Department of Defense, Appropriations Act

"When issuing statements, press releases, requests for proposals, bid solicitations, and other documents describing projects or programs funded in whole or in part with Federal money, all grantees receiving Federal funds, including but not limited to State and local governments, shall clearly state (1) the percentage of the total cost of the program or project which will be financed with Federal money, and (2) the dollar amount of Federal funds for the project or program."

Certification Regarding Debarment & Suspension

The Applicant shall include in its contracts for construction of projects, a provision for compliance with Executive Order 12549, Debarment and Suspension, 49 CFR Part 12, Section 12.5 10:

(1) The prospective lower tier participant certifies, by submission of this proposal that neither it nor its principals is currently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participants shall attach an explanation to this proposal.

Equal Employment Opportunity (EEO)

The Applicant shall ensure that contractors will comply with Executive Order 11246 (Equal Employment Opportunity), as amended by Executive Order 11375 regarding equal opportunity for all persons, without regard to race, color, religion, sex, or national origin, employed or seeking employment with contractors performing under federally assisted construction contracts. In addition, the following specific requirements shall be carried out by the Board.

The Applicant shall include the following in solicitation for offers and bids on federally assisted construction contracts:

(a) "Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity" including goals which are to be inserted by contracting officer or applicant.

(b) "Standard Federal Equal Employment Opportunity Construction Contract Specification".

The Applicant shall include the following in construction contracts:

(a) Equal Opportunity Clause.

(b) "Standard Federal Equal Employment Opportunity Construction Contract Specification".

(c) A Non-Segregated Facilities Certification signed by the prime contractor and subcontractor.

The Applicant shall ensure that EEO posters are displayed on Federally assisted construction sites.

The Applicant shall ensure that the provisions of the Equal Opportunity Clause are followed for construction contracts involving force account labor.

The Applicant shall carry out sanctions and penalties imposed upon the federally assisted construction contractor or subcontractor by the Secretary of Labor pursuant to Executive Order 11246, as amended, and refrain from entering into any contract subject to this Order, or extension or other modification of such a contract with a contractor debarred from Government contracts under Executive Order 11246, as amended.

The Applicant shall incorporate, or cause to be incorporated, into all construction contracts the Equal Opportunity Provisions included in the Federal Contract Provisions in the Appendix of this manual.

The Applicant shall (1) comply with the Equal Employment Opportunity provisions in construction work carried out by itself, (2) assist and cooperate actively with the Secretary of Transportation and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the Federal Contract Provisions and with the rules, regulations, and relevant orders of the Secretary of Labor, (3) obtain and furnish to the Secretary of Transportation and to the Secretary of Labor such information as they may require for the supervision of such compliance, (4) enforce the obligation of contractors and subcontractors under such provisions, rules, regulations, and orders, (5) carry out sanctions and penalties for violation of such obligations imposed upon contractors and subcontractors by the Secretary of Labor or the Secretary of Transportation, and (6) refrain from entering into any contract with a contractor debarred from Government contracts under Part II, Subpart D, of Executive Order No. 11246, as amended. In addition, the Applicant agrees that if it fails or refuses to comply with these undertakings, the Federal Agency may take any or all of the following actions: cancel, terminate, or suspend in whole or in part this grant; refrain from extending any further assistance to the applicant under the program with respect to which the failure or refusal occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice of appropriate legal proceedings.

6. Nondiscrimination

The Applicant will comply with the nondiscrimination obligations imposed by federal, state and local regulations and ensure that all sites, facilities, activities and employment practices in its jurisdiction, are available to all persons on an equal opportunity basis, regardless of the individual's race, color, national origin, sex, age or handicap. The major acts concerning nondiscriminatory practices (and compliance guidelines) are described below.

Age Discrimination Act of 1975

The Applicant will comply with the Age Discrimination Act of 1975 (42 U. S.C. 6101), as amended (Title III of P.L. 94-135) which prohibits discrimination on the basis of age in programs or activities receiving Federal financial assistance.

The U.S. Department of the Transportation requires:

(1) "No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance."

(2) A recipient of federal assistance is permitted to take an action, otherwise prohibited, if the action reasonably takes into account age as a factor necessary to the normal operation or achievement of a statutory objective of a program or activity.

The conditions outlined under Title VI of the Civil Rights Act would apply to this program as well.

Title VI of the Civil Rights Act

The Applicant will comply with Title VI of the Civil Rights Act of 1964 (P.L. 88-35-2) and all requirements imposed by or pursuant to the Department of the Interior Regulation (49 CFR 17) issued pursuant to that Title.

Title VI states:

"No person in the United States shall, on the ground of race, color, or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under a program or activity receiving federal financial assistance."

According to the federal interpretation of the preceding statement, as soon as a project sponsor receives federal funds through this program or another federal program, the entire sponsor's system under the Agency's jurisdiction becomes subject to the obligations imposed by Title VI of the Act. This Act requires that agencies take affirmative measures to ensure all facilities and programs within their control are open to the general public regardless of race, color, or national origin. Discrimination is not permitted. Slightly higher user fees may be charged to residents living outside the jurisdiction of the sponsoring park board, city, or Applicant, but such fees may be no more than double the fee for residents.

The Applicant shall comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) prohibiting employment discrimination where (1) the primary purpose of a grant is to provide employment or (2) discriminatory employment practices will result in unequal treatment of persons who are or should benefit from the grant-aided activity.

The following is a summary of the conditions for Title VI. The detailed federal guidelines are in the Appendix, and project sponsors must carefully study and follow the guidelines to ensure compliance with all federal regulations.

(1) Prohibited Discriminatory Practices.

- (a) Any difference in quality, quantity or the manner in which the benefit is provided.
- (b) Segregation or separate treatment in any part of the program.
- (c) Restriction in the enjoyment of any advantages, privileges or other benefits provided to others.
- (d) Different standards or requirements for participation.
- (e) Methods of administration which would defeat or substantially impair the accomplishment of the program objectives.
- (f) Discrimination in any activity or program conducted in a facility built in whole or part with federal funds.
- (g) Discrimination in any employment resulting from a program established primarily to provide employment or in any employment in a program where employment tends to affect the service and benefit rendered.
- (h) Restriction in the method and/or means used to advise persons of benefits and service provided to others.

(2) Complaints. Any person(s) who believe discrimination because of race, color, or national origin exists in a federally-assisted program have the right to make a complaint to the officials responsible for that program.

- (a) Prompt investigations will be made of complaints received.
- (b) If discrimination is found, negotiation and persuasion will first be used in an effort to eliminate the prohibited practices.
- (c) Should these efforts fail, federal assistance may be terminated or discontinued after a fair hearing.
- (d) Other means authorized by law, including court action, may also be used to enforce nondiscrimination.

No agency or other person may intimidate, threaten, coerce, or discriminate against any individual because he or she has made a complaint, testified or assisted in a Title VI

investigation, proceeding or hearing. The Applicant must notify the Department of Transportation's Office for Equal Opportunity or the Federal agency within 5 (five) days upon receipt of a complaint.

(3) Compliance Reports. Records and other information designed to show the intent of compliance with Title VI agreements must be maintained by agencies, park departments and local units of government and reports sent to the Department of Transportation and ADECA Recreation Programs as requested. Agencies are also required to inform participants and other interested persons of the provisions of Title VI regulations and of their applicability to the federal assistance program.

(4) Reviews. The Department of Transportation and ADECA Recreation Programs may conduct reviews prior to awarding grants, during visits to the project site, and after the project has been finished. Reports, publications, and other records may be reviewed in the course of these compliance reviews.

(5) Compliance Under Title VI. Title VI regulations provide the necessary framework for protecting the rights guaranteed to the agencies and to the public under federally-assisted programs. Compliance will first be sought by affirmative and voluntary means whenever possible. But, in addition, the regulations allow the Federal Government to make pre-grant, field and follow-up reviews; compliant investigations; informal adjustments; and when necessary, more formal proceedings in the court system.

(6) Affirmative Measures. The following, although not all-inclusive, are considered as basic affirmative measures necessary to bring recipients of Federal assistance and their operations into compliance with Title VI:

(a) Signed assurance of Title VI compliance, Applicants for Federal assistance should be aware of the provisions of the 1964 Civil Rights Laws and are required to ensure compliance prior to receiving Federal assistance.

(b) Submittal of pre-award information when requested.

(c) Minority and female representation on appointed park, advisory, planning, and review boards and committees. Exclusion of minorities and women could be considered discriminatory. Inclusion guarantees a voice in the planning and development of projects and programs.

(d) Equal emphasis of program administration and program distribution (recreational, cultural, etc.) and maintenance quality of facilities whether they are located in majority or in minority areas. Development and implementation of an affirmative action plan to remedy past and present deficiencies in the employment, training, and promotion potential of minorities and women.

(e) A system for reporting and processing alleged complaints of discrimination. Placement of equal opportunity statements on posters, brochures, and other informational material inviting all persons regardless of race, color, or national origin to use programs and facilities.

(f) Use of pictures of minorities and women, and integrated use of facilities, in brochures, pamphlets, and other informational material. Exclusion could be considered discriminatory and inclusion provides tangible evidence that all are welcome and encouraged to use programs and facilities which receive federal assistance.

(g) Printed information about programs, sites, and facilities in non-English languages where there are appreciable numbers of people who do not speak or read English.

(h) Equal compensation and assistance for those displaced in the course of a land acquisition program whether they are majority or minority land owners.

Several practical steps should be considered as a means of implementing the above mentioned affirmative measures. Racial/ethnic and sex data should be collected by the recipient to determine, if in fact, all persons are benefiting from the federally-assisted program. Identification of persons of different races should be done on a visual basis only. Programs and employment opportunities should be advertised and made available to minority groups and women. Consideration should be given to minority and female enterprises as a means of distributing the benefits of federally-assisted programs. Programs of an historical nature should take into consideration the contributions made by minority groups and women.

The posters in the Appendix (A-14), or ones similar to them, are to be posted on project sites.

The following paragraph is an example of a Title VI Notification Clause. The Office for Equal Opportunity requires that all program materials, brochures, program or course applications, sign up sheets, contracts signed by private organizations for park use, rental contracts for concession stands and or all other lease or contracts, contain such a clause. While all the information contained in this paragraph must be included, the agency may rewrite this clause to conform to its individual style.

Model Title VI Notification Clause

This program receives federal funds. Under Title VI of the 1964 Civil Rights Act, the U.S. Department of the Interior prohibits discrimination on the basis of race, color, national origin, age or disability. If you believe that you have been discriminated against in any program, activity or facility, or you desire further information regarding Title VI, please write to:

The Office Of Equal Opportunity
U.S. Department of Transportation
Office of the Secretary
Washington, D.C. 20240

Equal Employment Opportunity

The Applicant will comply with Executive Order 11246, Equal Employment Opportunity, as amended by E.O. 11375, which prohibits discrimination by government contractors on the basis of race, color, religion, sex, or national origin. More details concerning compliance

with this Order are outlined in this chapter under #5 and in the “Federal Contract Provisions” in the Appendix.

Architectural Barriers Act of 1968

The Applicant will comply with the Architectural Barriers Act of 1968 (P.L. 90-480), which requires facilities acquired or developed with federal assistance be designed so their facilities are accessible to persons with disabilities. All projects must be constructed to provide for this physical accessibility in accord with the “American Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped,” Number A1 17.1-1961, as modified (41 CFR 101-17.703).

Section 504 of the Rehabilitation Act of 1973

The Applicant will comply with Section 504 of the Rehabilitation Act of 1973 (P.L. 93-112), as amended (P.L. 93-516 and P.L. 95-602) which states:

“ . . . no qualified handicapped person shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity that receives or benefits from federal financial assistance.”

This act emphasizes accessibility for persons with disabilities to programs, activities and services. It also applies to employment practices of the recipient agency and some related contractual and user groups’ services and practices. The federal guidelines for complying with Section 504 are included in the Appendix. These should be read completely so all of the Applicant’s responsibilities for compliance are understood. The following is a summary of the Section 504 guidelines:

(1) Persons Covered.

“Handicapped person” means anyone who has a physical or mental impairment that substantially limits one or more major life activities. “Major life activities” are defined as functions such as caring for one’s self, performing manual tasks, walking, seeing, speaking, hearing, breathing and learning. Drug and alcohol abusers are also covered by Section 504, except when current use of drugs or alcohol prevents them from performing the duties of the job in question or poses an immediate threat to public safety or property.

(2) Program Accessibility.

All programs and activities provided by the Applicant must be accessible to qualified disabled persons on a “system-wide” basis, even those not directly receiving federal aid. A “qualified person with disabilities” is one who meets the essential eligibility requirements for program participation or receipt of services. This means persons with disabilities must be able to participate in each type of program or activity at a minimum of one location within the Applicant’s jurisdiction. For example, if a park department offers guitar classes at five locations in a city, one of those classes must be accessible to persons with disabilities.

Accessibility to activities may be provided by several methods, including redesigning equipment, structural changes to a facility, moving programs to other accessible locations, providing aids for the disabled, and home visits. Thus, program accessibility does not

mean every facility has to be made structurally accessible, and may or may not require physical modification to facilities.

For applicants which employ fewer than fifteen full or part-time employees, if the situation arises after consultation with a person with a disability who wants recreation services, that no alternative exists to provide access other than structural adaptations, the person may be referred to other providers of services whose facilities are accessible. Such referrals may be made, however, only with advance approval by the Director of the Department of Transportation's Office for Equal Opportunity.

(3) Employment Practices.

The organization must ensure that its employment practices are nondiscriminatory. Written nondiscrimination policies should include the handicapped. Discrimination against "qualified" individuals is prohibited. A "qualified handicapped person" is one who, with "reasonable accommodations," can perform the essential functions of the job in question. Reasonable accommodation must be provided to employees and applicants with disabilities, unless it creates "undue hardship".

Accommodations may include facility access, modified work schedules, job restructuring and permitting work to be done at home or other locations. All applicants and employees must be informed that discrimination on the basis of disability is prohibited. The applicant needs to take steps to communicate effectively with the visually and hearing impaired, as well as the mentally retarded and learning disabled. Employees also need to be notified of when, where and how to file employment complaints alleging handicap discrimination. The applicant must adopt grievance procedures for prompt and equitable resolution of complaints. A wide range of employment practices are covered by Section 504. These are detailed in the Appendix.

(4) Public Notification.

The applicant is to notify its employees and the public of the availability and accessibility of its programs and services, its policy of nondiscrimination, and procedures for filing complaints. This can be through its program publications, posters, the media and recruitment materials. Appropriate steps must be taken to communicate with persons with impaired vision, hearing, and learning disabilities and who are mentally retarded.

The public must be informed that the applicant receives federal financial assistance from the Department of Transportation, and thus federal law prohibits discrimination on the basis of handicap in the applicant's programs and activities. The explanation must also state if any individual feels he or she has been discriminated against or desires further information regarding the Department of Transportation's nondiscrimination requirements, the person may write to:

Director
Office for Equal Opportunity
U.S. Dept. of Transportation
Washington, D.C. 20240

(5) Extension of Compliance to Others.

If the applicant gives, leases, or transfers real property, it must put a covenant in the agreement transferring the property that discrimination on the basis of handicap will not occur. This obligates the recipient or the transferee, for the period during which the real property is used for the purpose for which it was extended, to operate in a non-discriminatory manner.

Where the applicant has a contract, subcontract or agreement with concessionaires, organizations such as health maintenance organizations, insurance agencies, training or employment agencies, or labor unions, nondiscrimination clauses must be included in the contractual documents and ensure that the organizations do not discriminate on the basis of handicap in services to employees and job applicants.

(6) Administrative Requirements.

Applicants employing fifteen or more full or part-time employees must designate one person as being a Section 504 Coordinator, responsible for compliance with the Act. Such agencies must also adopt grievance procedures for the prompt and equitable resolution of handicapped discrimination complaints.

Applicants should keep on file sufficient documentation to demonstrate compliance with Section 504 for federal review purposes. The Department of Transportation Office for Equal Opportunity will periodically perform on-site and desk audit reviews of local grant recipients. ADECA Recreation Programs staff may also request evidence of compliance for review purposes. Agencies are expected to resolve any noncompliance voluntarily; however, available federal sanctions include withholding or terminating federal funds and judicial enforcements.

To aid local agencies in compliance with Section 504, a model poster which covers Title VI and Section 504 public notification is included in the Appendix.

7. Employment.

The Applicant may comply with the following laws and standards as they relate to employment practices.

A. Minority Business Enterprise Development

The Applicant shall comply with Executive Order 12432, Minority Business Enterprise Development, as follows.

It is the national policy to place a fair share of purchases with minority business firms. The Department of Transportation is strongly committed to the objectives of this policy and encourages all recipients of its grants and cooperative agreements to take affirmative steps to ensure such fairness.

In particular recipients should:

(1) Place minority business firms on bidder's mailing lists.

(2) Solicit these firms whenever they are potential sources of supplies, equipment, construction, or services

(3) Where feasible, divide total requirements into smaller needs, and set delivery schedules that will encourage participation by these firms.

(4) Use the assistance of the Minority Business Development Agency of the Department of Commerce, the Small Business Administration, the Office of Small and Disadvantaged Business Utilization, Department of Transportation (DOT), the Business Utilization and Development Specialists who reside in each DOT bureau and office, and similar State and local offices where they exist.

B. Fair Labor Standards Act (P.L. 95-191, 91 Stat. 1245)

The applicant will comply with the provisions of the Federal Fair Labor Standards Act as they apply to the minimum wage and maximum hours provisions for employees of state and local governments.

C. Conflict of Interests

The Applicant will establish safeguards to prohibit employees from using their positions for a purpose which is or gives the appearance of being motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business or other ties.

The Applicant will ensure no member or employee of the Agency who is authorized in an official capacity to negotiate, make, accept or approve, or to take part in such decisions regarding a contract or subcontract in connection with this project shall have any financial or other personal interest in any such contract or subcontract.

The Applicant will ensure no person performing services for the Agency, in connection with this project shall have a financial or other personal interest other than employment or retention by the Applicant, State, or Federal Government, in any contract or subcontract in connection with this project. No officer or employee of such person retained by the Applicant, State or Federal Government shall have any financial or other personal interest in any real property acquired for this project unless such interest is openly disclosed upon the public records of the State, and such officer, employee or person has not participated in the acquisition for or on behalf of the Applicant.

No member of or delegate to Congress shall be admitted to any share or part of this agreement, or to any benefit to arise hereupon, unless such benefit shall be in the form of an agreement made with a corporation for its general benefit.

The Applicant, State and Federal agencies shall be responsible for enforcing the above conflict of interest provisions.

D. Hatch Act

The Applicant will comply with the provisions of the Hatch Act (5 U.S.C. 1501-1508), as amended, which provides that no officer or employee of the Applicant or State whose principal employment is in connection with any activity which is financed in whole or in part pursuant to this agreement shall take part in any of the political activity prescribed in the Hatch Political Activity Act (5 U.S.C. Sec. 118k, 1964).

The covered officer or employee may not use his official authority or influence for the purpose of interfering with or affecting the result of an election or nomination for office.

The covered officer or employee may not directly or indirectly coerce, attempt to coerce, command, or advise a state or local officer or employee to pay, lend or contribute anything of value to a party committee, organization, agency, or person for political purposes.

The covered officer or employee may not be a candidate for elective office in a partisan election.

8. Administrative Regulations

The Applicant shall comply with applicable federal, state and local regulations, policies, guidelines and requirements as they relate to the application, acceptance and use of federal funds for this project.

The Applicant shall comply with Executive Order 12372, Clearinghouse Review, which states all projects being submitted for federal assistance must be routed through the State's inter-governmental review system for review and comment prior to submittal of the project to the Federal agency.

The Applicant shall comply with the Office of Management and Budget Circulars A-102, Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments. This Circular contains standards for establishing consistency and uniformity among federal agencies in the administration of grants to state and local governments. The Circular also includes standards to ensure consistency in the implementation of the Intergovernmental Cooperation Act of 1968 (82 Stat. 1101).

The Applicant will comply with the Office of Management and Budget Circular A-87, Cost Principles for State and Local Governments. This Circular sets forth the principles for determining the allowable cost of programs administered by state, local, and federally-recognized Indian tribal governments under grants from and contracts with the Federal Government. The principles in the Circular are designed to provide that federally-assisted programs bear their fair share of costs recognized under these principles, except where restricted or prohibited by law.

The Applicant will comply with the Office of Management and Budget Circular A-128, Audits of State and Local Governments. This Circular establishes audit requirements for state and local governments that receive federal assistance, through the U.S. Department of Transportation and it defines the responsibility of the Federal agency for implementing and monitoring the compliance requirements.

9. Protecting and Preserving the Environment.

Clean Air Act of 1955

The Applicant will comply with the provisions of the Clean Air Act of 1955, as amended (42 U. S.C. 7609), which establishes guidelines for preventing and controlling air pollution. The Act provides federal assistance for development of programs to inspect and regulate emissions and to discourage the excessive use of vehicles which pollute the air. The Act also gives the Environmental Protection Agency (EPA) the authority to establish air quality

standards for various regions of the country. These standards set the legal limits for specific pollutants and the EPA monitors the presence of pollutants in the atmosphere and may require those areas exceeding the standards to bring the pollution levels within the specified limits before permitting further industrial expansion.

Clean Water Act of 1977

The Applicant will comply with the Clean Water Act of 1977 (33 U.S.C. Secs. 1288, 1314, 1341, 1342, 1344) which (1) establishes criteria for the clean-up of water, (2) regulates the discharge of pollutants and toxic chemicals, and (3) promotes the protection of fish and wildlife and intergovernmental cooperation in the field of environmental protection.

Coastal Zone Management Act of 1972

The Applicant will comply with the provisions of the Coastal Zone Management Act of 1972 (P.L. 92-583) (16 U.S.C. Sec. 1451, 1456) which establishes a policy to preserve, protect, develop, and where possible, restore or enhance, the resources of the Nation's coastal zones for this and succeeding generations. The Act gives full consideration to the ecological, cultural, historic and aesthetic values as well as the needs for economic development along the coastal zones.

Endangered Species Act of 1973

The Applicant will comply with the provisions of the Endangered Species Act of 1973 (16 U.S.C. 1531-1534) which states federally assisted projects must not jeopardize the continued existence of any endangered or threatened species, or result in the destruction or adverse modification of the habitat of the species. The Applicant is required to notify ADECA Recreation Programs and the Federal Highway Administration when a project may affect an endangered or threatened species, either beneficially or adversely. The Applicant must include in the notice, the name of the listed species and/or critical habitat included; list the name, description and location of the area; list objectives of the actions; and provide an explanation of the impacts of the action on a listed species or its critical habitat.

Conservation of Petroleum and Natural Gas

The Applicant will comply with the provisions of Executive Order 12185, Conservation of Petroleum and Natural Gas, which states recipients of federal assistance must develop projects which encourage the conservation of petroleum and natural gas and those recipients will assist the federal agencies by identifying other projects which encourage conservation.

Prevention Control and Abatement of Water Pollution

The Applicant will comply with the provisions of Executive Order 11288, Prevention, Control and Abatement of Water Pollution, which states that in an effort to improve water quality, the construction or renovation of facilities and buildings must meet the pollution control standards outlined in this Order.

Evaluation of Flood Hazard in Locating Federally Owned or Financed Buildings, Roads, and Other Facilities and in Disposing of Federal Lands and Properties.

The Applicant will comply with the provisions of Executive Order 11296, Evaluation of Flood Hazard in Locating Federally Owned or Financed Buildings, Roads and Other Facilities and in Disposing of Federal Lands and Properties, which states that in an effort to prevent uneconomic uses and development of the Nation's floodplains and, in particular, to lessen the risk of flood losses in connection with federally financed or supported projects,

the Federal Government must evaluate the potential of flood hazards and must make efforts to minimize the exposure of facilities to potential flood damage.

Exotic Organisms

The Applicant will comply with the provisions of Executive Order 11987, Exotic Organisms, which states that federal agencies shall discourage people from introducing exotic species into natural ecosystems of the United States. In addition, federal agencies must restrict the use of federal funds for the purpose of introducing exotic species into such systems.

When an Applicant requests permission for introducing an exotic species, the request must be accompanied by a biological opinion from the U. S. Fish and Wildlife Service supporting the proposed introduction. This must be accompanied by National Environmental Policy Act (NEPA) documents, biological data and project plans. The Applicant will then be responsible for adhering to the recommendations outlined in the opinion from the U.S. Fish and Wildlife Service.

Floodplain Management

The Applicant will comply with Executive Order 11988, Floodplain Management, which states in order to avoid the long and short term adverse impacts associated with the occupancy and modification of floodplains and to avoid the support of floodplain development, that action will be taken to reduce the risk of flood loss; minimize the impact of floods on human safety, health and welfare; and restore and preserve the natural and beneficial values served by floodplains, through the regulation by federal, state and local governments of floodplain development.

Protection and Enhancement of the Natural Environment

The Applicant will comply with Executive Order 11514, Protection and Enhancement of the Natural Environment, as amended by Executive Order 11991, which provides for the compilation of environmental impact statements, (when needed) which are more useful to the public with a reduction of paperwork and accumulation of background material, and to focus on real environmental issues and alternatives. The Act requires statements to be concise, clear to the point, and be supported by evidence that agencies have made the necessary environmental analysis.

Protection of Wetlands

The Applicant will comply with Executive Order 11990, Protection of Wetlands, which states in order to avoid the long and short term impacts associated with the destruction and modification of wetlands and to avoid support of more construction in wetlands when there are practicable alternatives, the Federal Government will take action to minimize the destruction, loss or degradation of wetlands, and to preserve and enhance the natural and beneficial values of wetlands.

(1) Summary. All construction, maintenance, rehabilitation or installation of structures or facilities, and all real estate transactions which have the potential to adversely affect the natural and beneficial values of floodplains or wetlands or the occupants of floodplain areas, or which will result in the construction or rehabilitation of structures or facilities subject to potential harm by location in floodplains or wetlands must be documented in accordance with the following procedures. Actions subject to these procedures do not include routine maintenance which does not increase flood risk of an existing structure or facility and does not disrupt floodplain values.

(2) Procedures for planning and implementing projects in or affecting floodplains and wetlands.

(a) Floodplain and wetland determination.

During the initial stages of all planning activities, a determination shall be made as to whether the action may potentially affect a wetland or floodplain area. Federal Insurance Administration (FIA) maps, if available, shall be used as the primary reference for establishing floodplain limits; however, floodplain areas around many small lakes, ponds, and wetland areas are often less than 200 feet wide and the FIA does not delineate areas that small. If the needed information is not available from the FIA, assistance may be acquired from other sources.

If the analyses and subsequent evaluations indicate the proposed action (1) lies outside the base flood plain and outside a wetland, (2) has no effect upon floodplain or wetland, or (3) is not expected to cause indirect support of floodplain development and wetland alteration, then planning can proceed without further consideration of these procedures.

(b) Early public review.

Opportunities shall be provided for interested and concerned members of the public and representatives of federal, state, and local government agencies to become involved in the early stages of the planning process. The "coping" process required by the National Environmental Policy Act regulations will satisfy this requirement whenever an early decision is made to prepare an environmental impact statement. In other cases, an opportunity will be provided for public participation by advertising the proposed project and the major alternatives. For proposals of national concern, a notice must be published in the Federal Register stating the planning has commenced and suggestions have been solicited from the public and other agencies. For actions of local concern, a notice informing the public of the proposal and requesting their comments will be sent to local newspapers, posted on or near the site, and posted at nearby wildlife agency installations. A special effort will be made to inform adjacent landowners, conservation and community service organizations, and local government organizations that may be affected or interested. For proposed actions where substantial citizen interest or controversy is expected, a public meeting should be held to allow a full discussion of the issues.

(c) Identification and evaluation of alternatives for locating in base floodplains or wetlands.

Whenever it is proposed to undertake or locate an action in a base floodplain or wetland, alternatives to such a location must be evaluated and their practicability determined. Alternatives to be evaluated must include:

- Carrying out the proposed action at a location outside the floodplain or wetland;
- Considering alternative sites within the floodplain or wetland which may have less impact;

- Using other means to accomplish the same purpose as the proposed action (e.g., enlarge an existing facility rather than build a new one);
- Take no action. Unless the importance of carrying out the action clearly outweighs any potential adverse effect on the floodplain environment and on human health and welfare, a no action alternative must be selected. If a practicable alternative outside the base floodplain or wetland is identified, it must be selected.

(d) Identification of impacts of the proposed action.

Occasionally, there will be no practicable alternative to locating structures or facilities in a floodplain or wetland. This will be the case for water management facilities when the objective is to preserve, manage, or restore specific natural and beneficial values; however, all adverse effects must be identified (e.g., an impoundment may benefit waterfowl while lessening habitat values for upland wildlife or downstream resources). Indirect impacts of action taken outside of a floodplain or wetland (e.g. construction of a fish hatchery or wildlife refuge headquarters) must be considered. The potential impacts of flooding on the proposed structures or facilities must be considered to minimize the risk of the Federal investment.

(e) Minimize, restore, preserve.

Measures must be incorporated into actions impacting wetlands or flood plains to minimize any adverse impacts. When managing for a specific natural and beneficial value, adverse impacts on other such values must be minimized (e.g., when managing bottomland hardwoods for waterfowl, adverse impacts on forestry resources must be minimized). When lives or property are affected, the goal is to avoid increasing base flood level over the level of the base flood prior to the proposed action.

(f) Re-evaluation of alternatives.

The proposed action and its alternatives will be re-evaluated after potential adverse impacts of the proposed action have been identified, and after measures to minimize these impacts and measures to restore and preserve other values have been incorporated. When it is apparent from the re-evaluation that there is no practicable alternative to impacting a floodplain or wetland, an explanation will be included in the environmental assessment or environmental impact statement sent to the Regional Director with the project proposal.

Pesticide Usage

The Applicant will comply with the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 135 et seq.) and the Federal Environmental Pesticide Control Act of 1972 (86 Stat. 973) which forbids any person to sell, distribute, hold for sale, ship, deliver for shipment, or offer to deliver any pesticide not registered with the Environmental Protection Agency (EPA). Federal funds may not be used for application of any pesticide

unless it is applied in conformance with these Acts and the Department of the Interior, Pesticide Use Policy. This requires the Applicant:

(1) To use pesticides only after full consideration of alternatives based on competent analyses of environmental effects, safety, specificity, effectiveness, and costs. The full range of alternatives including chemical, biological, and physical methods, and "no action" will be considered. When it is determined a pesticide must be used in order to meet important management goals, the least hazardous material which will meet such goals will be chosen.

(2) To utilize pest management research, control, education, and assistance programs to develop, support, and adopt integrated pest management strategies wherever practicable.

(3) To use only pesticides registered by the Environmental Protection Agency (EPA) in full accordance with FIFRA, as amended, and as provided in regulations, orders, or permits issued by EPA.

(4) That the handling and use of restricted-use pesticides be conducted with caution and only by personnel who are either certified or under the direct supervision of a certified applicator trained by a State of Alabama program meeting EPA standards.

(5) To ensure that all pesticides and pesticide containers are transported, stored, and disposed of in a manner which will safeguard human health and fish and wildlife, and prevent soil and water contamination.

(6) To give full consideration at all times to safety of humans, fish and wildlife, and other non-target organisms.

(7) To use pesticides in habitats involving endangered and threatened animal or plant consultation process.

(8) To use pesticides in wilderness areas only where necessary to protect human health or to prevent loss of significant resource values on public or private lands within or bordering the wilderness area.

(9) To conduct or require quality control monitoring before, during, and after any pesticide application in ecologically sensitive areas. Such monitoring will determine whether the application achieved the desired effects and whether there are any significant, unanticipated effects.

(10) To apply pesticides by aerial methods only when the advantages over ground methods are distinct and then only with appropriate techniques to ensure positive placement and to minimize drift.

(11) To provide opportunity for public participation in carrying out pesticide use programs.

(12) To ensure areas treated with Restricted Use pesticides (40 CFR 162.31) are posted at usual points of entry so occupants, land users, and visitors are informed

sufficiently in advance to avoid possible exposure. Such posting will contain (1) a statement that the area has been or will be treated with a named pesticide; (2) the date of the treatment; (3) appropriate precautions to be taken or the date when re-entry is judged to be safe; (4) a telephone number and address for further information. Local managers may make exceptions to the posting requirement where they judge no public exposure is likely.

(13) To ensure that all lessees, operators, or other users of Federal Aid lands, waters, or facilities are aware of their obligation to comply with FIFRA as amended, and all other applicable federal and state laws and regulations governing the use of pesticides, and to require such compliance through periodic review of the pesticides related plans and practices of the land users.

(14) A project sponsor may use pesticides without prior Federal approval if ADECA Recreation Programs and the Regional Director finds a system of pesticide management, meeting the above standards and has been adopted by the project sponsor. The FWS reserves monitoring responsibilities to ensure compliance for pesticide usage involving Federal Aid funds.

Those sponsors not having such a system must obtain prior approval from ADECA Recreation Programs and FWS for application of restricted use pesticides (as classified by EPA) involving Federal Funds.

Fish and Wildlife Coordination Act

The Applicant will comply with the provisions of the Fish and Wildlife Coordination Act (16 U.S.C. Sec. 661,662), which provide for the promotion of the conservation of wildlife, fish and game. The Agency will cooperate with federal, state and local agencies in rearing, stocking and increasing the supply of game, fur-bearing animals and fish, in combating diseases and in developing a nation-wide program of wildlife conservation.

Flood Disaster Protection Act of 1973

The Applicant will comply with the Flood Disaster Protection Act of 1973 (P.L. 93-234), (87 Stat. 975), (12 U.S.C. Sec. 24, 1701-1 Supp.), (42 U.S.C. Sec. 4001 et seq.), which states that in areas or communities which have been identified by the Secretary of the Department of Housing and Urban Development or by the Flood Insurance Administration of the Federal Emergency Management Agency as an area having special flood hazards, the Applicant must purchase flood insurance (if available) as a condition of the receipt of any federal financial assistance for construction or acquisition purposes. The Act has been expanded by increasing the limits of coverage and the number of communities eligible for participation in the flood insurance program.

National Environmental Policy Act

The Applicant must comply with the provisions of the National Environmental Policy Act (NEPA) of 1969, as amended (P.L. 91-190) (42 U.S.C. 4321-4347 et seq.) which requires that every proposed federal project be examined to determine the effects it will have on the human environment and the findings be considered in decisions regarding implementation of the project. The Applicant must ensure that each project application will be accompanied by an environmental analysis and then an Environmental Assessment or Environmental Impact Statement will be completed for projects as required, or show that the proposed activity is covered by one or more categorical exclusion as outlined in the "NEPA in Federal Aid Proposals-Guidance to the States."

Rivers and Harbor Act of 189

The Applicant will comply with the provisions of the Rivers and Harbors Act of 1899 (33 U.S.C. Sec. 401 et seq.) (30 Stat. 115) which requires recipients of federal assistance to obtain the appropriate permits from local, state, and federal agencies for the construction of any bridge, causeway, dam, or dike over or in any port, roadstead, haven, harbor, canal, navigable river or other navigable water in the United States.

10. Coordination with the Environmental Protection Agency

The Applicant will ensure the site or facilities under its ownership, lease or supervision, which shall be acquired or developed in this project, are not listed on the Environmental Protection Agency's (EPA) list of Violating Facilities, pursuant to 40 CFR, Part 15.20.

The Applicant will notify State and Federal agencies if it receives communication from the Director of the EPA Office of Federal Activities indicating a site or facility included in the project is under consideration for listing by the EPA.

11. Historical and Cultural Preservation

Archaeological and Historic Preservation Act

The Applicant will comply with the Archaeological and Historic Preservation Act of 1974 (P.L. 93-291, 16 U.S.C. 469a-1), as amended, which states whenever any federal agency finds, or is notified in writing, by an appropriate historical or archaeological authority, that its action or connection with any federal construction project or federally licensed project, activity, or program may cause irreparable loss or destruction of significant scientific, prehistorical, historical or archaeological data. The Secretary of the Interior may conduct, with the consent of all having a legal interest in the property involved, a survey of the affected site, and undertake the recovery, protection and preservation of such site.

Archaeological Resources Protection Act

The Applicant will comply with the provisions of the Archaeological Resources Protection Act of 1979 (P.L. 96-95) which states data will be collected from archaeological sites, which are located on public lands, and the information will be shared with government authorities and the professional archaeological community, in order to protect and preserve sites which may have archaeological or historic significance.

Antiquities Act

The Applicant will comply with the provisions of the Antiquities Act of 1906 (16 U.S.C. Sec. 431) which allows the President of the United States to proclaim historic landmarks and transfer parcels of land associated with the site, to the Federal Government.

Protection and Enhancement of the Cultural Environment

The Applicant will comply with Executive Order 11593, Protection and Enhancement of the Cultural Environment (16 U.S.C. 470) which requires the preservation, restoration and maintenance of the historic and cultural environment of the nation. The Applicant must assist the federal government in identifying these sites, in investigating the eligibility of sites for inclusion in the National Register, and by avoiding or mitigating adverse effects upon such sites.

Historic Preservation

The Applicant will comply with the National Historic Preservation Act of 1966 (80 Stat. 915, 16 U.S.C. 470) and the National Historic Preservation Act Amendments of 1980 (P.L. 96-515, 94 Stat. 2987) by assisting the Federal Government in identifying, protecting, and preserving the nation's cultural and historic resources.

(1) The Applicant must, after consulting with the State Historic Preservation Officer, notify the State and Federal National Register of Historic Places, or properties that may be eligible for that list, which are subject to adverse effects by any federally aided project. Eligible properties include districts, sites, buildings, structures, or objects.

Adverse effects include:

- Destruction or alteration of all or part of the property.
- Isolation from or alteration of the properties' surrounding environment.
- Introduction of visual, audible, or atmospheric elements which are out of character with the property or alter its setting.
- Neglect of a property resulting in its deterioration or destruction.
- Transfer or sale of a property without adequate conditions or restrictions regarding preservation, maintenance, or use.

If an Applicant or State agency is advised by the State Historic Preservation Officer that a proposed project may adversely affect historic or cultural resources, the Applicant must initiate actions to locate and identify such resources. Because these resources are not often identifiable by untrained persons, a professional cultural resource survey may be required.

The Applicant must notify the State and Federal agencies of any National Register or eligible properties known to be located within the area of a federally assisted project's potential.

(2) If a previously unknown cultural or historic resource eligible for the National Register is discovered at any time during the implementation period of a federally assisted project, the State and Federal agencies must be notified and all actions which may adversely affect it must be suspended. The Federal Government will provide the Applicant and State agency with instructions on how the matter may be most expeditiously resolved.

12. Power Plant and Industrial Fuel Act of 1978 and the Federal Highway Act of 1973

Power Plant and Industrial Fuel Use Act of 1978

The Applicant will comply with the provisions of the Power Plant and Industrial Fuel Act of 1978 (P.L. 95-620) which requires recipients of federal assistance to assist the Federal Government in the implementation of the Act by increasing the nation's self-sufficiency with respect to energy resources and encouraging the use of coal and other alternate fuels.

Federal Highway Act of 1973

The Applicant will comply with the provisions of the Federal Highway Act of 1973 (P.L. 93-87), which states that since the interstate system is in the final stage of development, increased emphasis will be placed on the construction and renovation of the federal highway systems to meet the needs of local and interstate commerce and to bring the highways up to safety standards. When federally assisted projects may impact the

development or expansion of the interstate system, the agency must contact the appropriate State and Federal agencies regarding the impact of the project.

13. Record Retention, Audits and Inspections

The Applicant agrees to give the State of Alabama, the Federal Highway Administration and the Controller General of the United States, or any of their duly authorized representatives, access and the right to examine any books, documents, papers, and records of the Agency, local government and project contractors which are pertinent to a specific project for the purpose of making audit, examination excerpts and transcripts. The Applicant must retain financial records, supporting documents, statistical records, and all other records pertinent to this grant, for a minimum period of three (3) years; except the records shall be retained beyond the three year period if audit findings have not been resolved.

The record retention period starts from the date of the final expenditure report (or billing) for the project. The Applicant is authorized to substitute microfilm copies in lieu of original records after the retention period or resolution of audit findings.

The Applicant agrees to comply with the recommendations outlined in the project inspection reports, completed by State and Federal agencies. Properties and facilities acquired or developed with federal assistance shall be available for inspection by State and Federal agencies at such intervals as the Federal or State agencies shall require. Every 5 years these periodic inspections will be conducted throughout the "useful life of the facilities" for development projects.

The Applicant agrees that a permanent record shall be kept in the participant's public property records, and shall be available for public inspection, detailing the use of federal assistance to acquire and/or develop the project site(s), and the site will not be converted to other uses without the prior written approval of the State and Federal agencies.

14. Project Termination

The Applicant may request withdrawal of the project at any time prior to the first payment or expenditure of grant funds. After the initial payment, the project or agreement may be rescinded, modified or amended only by written mutual agreement between the Applicant and the State agency.

The Federal or State agency may terminate the project in whole or in part, at any time before the date of completion, whenever it is determined the Applicant has failed to comply with the terms of the project proposal or the intent of the program. Failure by the Applicant to comply with the terms of the agreement may cause suspension of all obligations by and a return of any monies received to the State of Alabama. The Federal or State agency will promptly notify the Applicant in writing of the determination and the reasons for the termination, together with the effective date. Payments made to Applicant or recovery of funds by the State or Federal agency under projects terminated for cause shall be in accord with the legal rights and liabilities of the parties.

The Applicant, State and Federal agencies may terminate the grants in whole, or in part at any time before the date of completion, when all parties agree that the continuation of the project would not produce beneficial results commensurate with the further expenditure of

funds. The parties shall agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated. The Applicant shall not incur new obligations for the terminated portion after the effective date, and shall cancel as many outstanding obligations as possible. The Federal agency may allow full credit to the State agency or Applicant for the Federal share of the noncancellable obligations, properly incurred by the grantee prior to termination.

Termination either for cause or for convenience requires the project in question be brought to a state of recreational usefulness agreed upon by the Applicant, State and Federal agencies or all funds provided by the Federal agency be returned. The Applicant will indemnify the State of Alabama from the obligation of such repayment.

15. Indemnity

The Applicant agrees to hold harmless, indemnify and defend the State of Alabama, its agencies, officers and employees from all claims, demands, suits and judgments which may result from any loss or damage to property or injury or death of any persons on the project site or in any other way connected with the issuance of this grant.

16. General Compliance

The Applicant shall comply with all applicable laws, rules and regulations and to the further terms and conditions specified by the Federal and/or State agencies. Applicant acknowledges the detailed conditions and terms of these assurances shall be in accord with the guidelines established by State and Federal agencies for the Recreational Trails Program.

The Applicant agrees that the benefit to be derived by the United States from the full compliance by the Applicant with the terms of this agreement is the preservation, protection, and the net increase in the quality of public trails and resources which are available to the people of the State of Alabama and of the United States, and such benefit exceeds to an immeasurable and unascertainable extent the amount of money furnished by the United States by way of assistance under the terms of this agreement. The applicant further agrees, therefore, that the appropriate remedy in the event of a breach by the Applicant of this agreement shall be the specific performance of this agreement.

Chapter 5

LAND ACQUISITION CRITERIA AND PROCEDURES

Eligible Acquisitions

Land may be purchased from either private landowners or other units of state or local government. Sites already owned by the town, city, township or county which the grant recipient represents, but which have been under the control of another department of the same local unit, may not be purchased with grant funds.

Property which the current owner acquired with federal funds may not be purchased with RTP funds nor could it be used as an in-kind land contribution match for a grant. However, a grant could be made to develop facilities on it if the source of local match were other than the land value.

State and Federal Acquisition Policies

Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970

All acquisitions must conform to the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Federal Uniform Act) P.L. 91-646. This law prescribes policies and procedures to ensure fair, equitable, and uniform treatment of persons whose land is acquired by governmental units and through federally assisted programs.

The provisions of the Federal Uniform Act apply to the acquisition of all real property for, and the relocation of all persons displaced by, projects which receive federal assistance. The Act applies regardless of whether federal assistance is used for acquisition or development. For example, an organization cannot knowingly circumvent the federal law by acquiring the land with local funds and not follow the regulations of the Act and then apply for development funds in a later project. For all development projects, proof must be supplied that the project site was acquired in accord with P.L. 91-646 if the land was acquired after January 2, 1971. This is explained in more detail for development projects in Chapters 2 and 6 and in the Appendix.

There are two major sections to the law: policies regarding the acquisition of land and relocation benefits to landowners. Each section will be discussed separately in this chapter.

The acquisition procedures explained in this chapter, should be read with extreme care. If the procedures are not followed, the sponsor could encounter severe problems in being reimbursed regardless of the method of acquisition.

Land Acquisition Costs

Eligible Costs

The following land acquisition costs are allowable and eligible for reimbursement under the Recreational Trails Program.

1. The appraised fair market value of fee simple title or an easement for the use of real property acquired by negotiated purchase.
2. The purchase price for an easement or fee title to real property acquired by bargain sale (below appraised value). The donated land value (the difference between the purchase price and appraised value) may be used as a match for federal funds to purchase that parcel of land, purchase other pieces of property, or develop facilities. Similarly, lands for which 100% of the value is donated may only be used as the organization's share of a project to purchase other land or build facilities.
3. Incidental acquisition and relocation costs only as described in the Uniform Relocation Assistance and Real Property Acquisition Policies Act.
4. Appraisal Fees.
5. Engineering reconnaissance fees where a land acquisition project involves proposed major facilities and their feasibility needs to be established. Examples of such eligible fees include hydrologic investigations, subsurface explorations, availability of construction materials and preliminary cost outlines. Detailed plans and specifications for construction of the facilities would not be eligible in a grant for only the land purchase, but would be eligible in a grant which included building the facilities.

Ineligible Costs

Costs ineligible for reimbursement in an acquisition project include:

1. The purchase of real property to which the project sponsor became committed prior to federal approval of the grant unless the property was granted a waiver of retroactivity for early acquisition from ADECA Recreation Programs.
2. Boundary surveys, title search, legal fees, and fines and penalties paid by the project sponsor.
3. Incidental costs relating to real property acquisition and interests in real property unless allowable under the Uniform Relocation Assistance and Real Property Acquisition Policies Act.
4. Taxes for which the local sponsor would not have been liable to pay.

5. Damage judgments arising out of acquisition whether determined by judicial decision, arbitration or otherwise.

Transfer of Title

If reimbursement is to be requested for the cost of a land purchase, the deed cannot be signed by the seller and buyer until the project is approved by the Federal Government. The applicant also cannot make a commitment to purchase real property prior to federal grant approval as described below under timing for purchases. The applicant may need or want to guarantee land will be available for purchase after grant approval. The property may be reserved for the applicant by: (1) having a private third party acquire and hold title to the land, or (2) by securing an option to purchase by a later date. A third party could be an individual, private business or educational institution, not-for-profit organization other than the applicant, or other similar entity.

Timing for Purchases and Date When Costs are Incurred

The applicant cannot make a commitment to purchase land prior to federal approval of the grant. Commitment may occur if, (a) an option to purchase is exercised; (b) payment is made to an escrow agent even though the applicant has not received the deed from the escrow agent; (c) a contract to purchase is executed; (d) the deed is accepted although payment has not been made; (e) the buyer takes possession of the property; or (f) other written promises to purchase have been made.

Confusion often arises in acquisition projects on the exact date when land purchase costs are incurred. To be eligible for matching assistance, purchase payment(s) to the landowner must be incurred within the project period (date of federal approval to the date of project expiration). Acquisition costs are incurred on the date when the earliest of any of the following transactions take place:

1. Project sponsors accept deed or other appropriate conveyance.
2. Project sponsor makes full payment for the property.
3. Project sponsor makes the first payment in a series of spaced or time payments.
4. Project sponsor makes the first or full payment as stipulated in an option agreement. (The cost of the option is still an allowable cost, and may be paid prior to federal grant approval.)
5. Project sponsor makes first partial or full payment to an escrow agent.

Options

The applicant may wish to take an option on the property to prevent the land being sold prior to the approval of a project. The date an option is exercised is normally the date the buyer advises the seller that he desires to complete the purchase under the terms of the

option. The option may include special conditions or terms which govern whether or not the buyer will purchase. For example, one condition could be the availability of funds or financing. An option is unacceptable if it is exercised prior to project approval, unless it specifies that acceptance is contingent on the availability of RTP grant money so the date of project approval would be the exercise date.

If an option is signed prior to federal approval of the project, then it should extend at least until spring so it may be exercised after the grant is approved. Since competition for funds is often intense, applicants may find it helpful to negotiate an option which can be extended at no cost for a second year. This could enable the project to compete for funds a second time if it were not approved the first year.

The purchase price in an option is to be the amount negotiated after the land has been appraised and the fair market value offered to the landowner as explained in the section on negotiated purchases. Only one payment toward the property may be made under an option. A maximum of 10 percent of the approved appraised value of the property may be paid at the time the option is transacted. This amount should be part of the purchase price of the property. Any additional payments prior to grant approval may make the acquisition ineligible. It is important that documentation of the option payment required for reimbursement billings be kept for later use. Project sponsors are encouraged to consult ADECA Recreation Programs before negotiating an option to ensure the eligibility of the land acquisition under the option conditions.

Timing for Land Donations

Property donations may be transferred to the applicant after project approval. If a land donor wants to convey the property before project approval, a letter requesting a waiver of this policy must be submitted to ADECA Recreation Programs. The waiver request should describe the situation and include a letter of intent from the land donor. Location and site maps should also be included with the request. A waiver should only be requested when necessary. Waivers will allow the applicant to preserve donated land value as a match. Granting the waiver will not guarantee the final approval of a project. Waivers will not normally preserve the land value for more than two annual grant application periods (through the following grant round). If the applicant receives title to a land gift after submitting a grant application and a grant is not awarded for the project that fall, the donated land value may only be used as a match for a grant application the following year. For this reason the applicant may wish to delay taking title until it is known whether a grant will be awarded. If a grant will not be awarded, and the donor wants to make the donation, the land could be given to a third party, such as a foundation or other not-for-profit organization other than the applicant. This third entity could donate the land in a later year and the land value would be eligible as a match. Land donations will be credited toward the sponsors match. No direct reimbursement will be given for a land donation.

Property Rights for Control and Tenure

Adequacy of Title

For lands included in a project, the sponsor must have title or adequate control and tenure of the project area in order to provide reasonable assurances that a conversion to a use other than public trail use will not occur without federal approval. Copies of the property titles, leases, easements, or appropriate documents must be submitted as part of a project's documentation.

The most common method of acquiring property is by fee simple title. This is the preferred method of acquisition since it gives the holder an absolute right to the property within limitations imposed by state or federal law.

In some instances the agency may wish to purchase less than fee simple title, such as easements, rights-of-way and title subject to deed restrictions. This would be permissible when fee simple is excessively expensive and a lesser control of the area will not detract from the recreational use of the land.

Title to land may be conveyed by warranty or quit claim deed to the applicant. Neither the State of Alabama nor the Federal Government will obtain title to a local area or facility acquired with federal assistance. The project sponsor must submit a description of the character and nature of the title received before requesting reimbursement. This evidence of title must include the property deed and either a written opinion from an attorney on the adequacy of title or a title insurance policy. A survey may be required when there is reasonable doubt about the exact location of the boundary or of the size of tract being acquired. The project sponsor is responsible for quieting claims against title and for replacing property found to have defective title with other properties of equivalent value, usefulness and location acceptable to ADECA Recreation Programs and Federal Highway Administration or by paying the grant back to the Federal Government if the land is lost.

Reservations, Adverse Rights, and Deed Restrictions

Oil, gas, mineral, or other reservations and rights held by others are permissible only if it is determined the project purposes and the environment would not be adversely affected. Such reservations must be described in the narrative of the project proposal, and how they will be dealt with to avoid impacting recreation and the environment. The acquisition of land which is subject to the reservation of surface rights extending more than 5 years must be justified. Reservations that are incompatible with project purposes will not be accepted.

Often landowners desire to specify restrictions in the property deed. The most frequent example would be that the land can only be used for park purposes. If a deed restriction for park purposes indicates the grantor's intent and does not provide for reversion of title upon failure to comply with the grantor's wishes, the condition may be acceptable. In certain situations a landowner may retain a life estate, under which he or she retains use of the property while living.

Land which has a reversionary clause in the deed whereby the landowner could repossess the property if it ceased to be used solely for the purpose specified in the deed may make

the project ineligible. If a reversionary clause in the deed specifies that the land must be developed for a specific purpose, even though the project includes that type of development, the project may be ineligible. A development project to construct a facility on land with a reversionary clause in the deed may also be ineligible, even though land may have been acquired without federal funds. Federal approval is required to acquire or develop land with reversionary clauses or outstanding interests in the property deeds. ADECA Recreation Programs should be consulted prior to submitting a project application involving deed clauses and restrictions.

If at some later date the rights to subsurface reservation or other deed restrictions adversely affect recreation use of the land or facilities, the applicant will be responsible for acquiring replacement property of equivalent usefulness, value and location or returning the federal funds used in the project.

Outstanding property rights may affect the value of the land. Examples include mineral rights, road rights-of-way, utility easements, and other deed restrictions. An appraiser should be fully aware of, and take into consideration the legal description of the property and any restrictions to be placed on the rights transferred. An appraisal of a property's value involves full consideration of the rights remaining with the property and, where appropriate, the effect the loss of these rights has on its value.

Easements

In some instances, the applicant will not be able to purchase the property but can acquire an easement. An easement must be for a period of at least 25 (twenty-five) years. During the time period, the easement cannot be revoked at will by the landowner unless the applicant or state is guilty of an infraction of the easement. The land must still be retained in public trail use for the duration of the easement period even though the easement has been revoked. Provisions stated in the easement cannot be detrimental to the proposed recreational development.

A draft copy of the easement must accompany the application for acquisition and development projects. If an easement has been or is to be executed prior to the submission of a development project application, a draft copy of the easement should be sent to ADECA Recreation Programs for review. Advance approval of such agreements may help ensure the eligibility of the site for funding.

Negotiations for easements must follow general negotiated land purchase regulations including the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act.

Similarly, if federal assistance is being requested on the purchase of an easement, the document cannot be transacted until the project has received federal approval.

Methods of Acquiring Land

Negotiated Purchases

This section outlines specific procedures under the Uniform Relocation Assistance and Real Property Acquisition Policies Act to follow in acquiring land through negotiated purchases involving federal assistance. The following steps must be taken by the applicant in negotiating with the landowner.

1. Make initial contact with the seller to see if the land might be available for sale. At this point, the price should not be negotiated since the purchase amount must be based on an appraisal.
2. Obtain information as to whether or not the owners, business(es), or tenants will be eligible for relocation assistance. ADECA Recreation Programs has booklets available which can be given to the landowner or tenant. The property residents must be advised of their right to relocation assistance.
3. Have the land appraised according to the Uniform Appraisal Standards for Federal Land Acquisitions, with the landowner given the opportunity to accompany the appraiser. The appraiser must have a copy of the appraisal requirements which are located on the web at www.usdoj.gov/enrd/land-ack.
4. Submit the appraisal report to ADECA Recreation Programs for review and approval. The report must be accompanied by a check in the amount of \$275.00, made payable to the Alabama Department of Transportation, to cover the cost of review appraisal. Review of the report may result in additional cost to the sponsor.
5. Inform the owner in writing of the value of the property based on the results of the appraisal and offer to purchase the property for this price. Also, inform the landowner of his or her eligibility for relocation benefits. It is not necessary to show the appraisal itself to the landowner. The authorized agent of the applicant and the property owner must sign the Statement of Just Compensation and Written Offer to Purchase form, which should indicate the appraised value of the property. A copy of this form is included in the Appendix.
6. Based on the written offer at the appraised value, the final selling price is negotiated. If the purchase price is more than the appraised value, additional documentation explaining the difference in value will be needed, as explained later in this section. If the price is less than the appraised value, the acquisition is called a "bargain sale", and a Waiver of Right of Just Compensation must be signed by the landowner as explained in the section on bargain sales. At this point, the applicant may sign an option to purchase, if desired, but before the grant receives federal approval the applicant may not make a commitment to acquire the property.

A project application may be submitted during any of the above steps to acquire the land. The appraisal, however, must have been submitted and approved prior to Step 6. Again, the land can only be acquired during the approved project period to be eligible for reimbursement of acquisition costs. The above procedure is mandatory and must be followed for all negotiated purchases.

Land purchased by negotiated purchase is based on a fair market value for the property as established in an independent appraisal prepared by a real estate appraiser hired by the applicant. An appraisal, if competently compiled by a qualified person, should be an acceptable estimate of property value. It cannot be assumed, however, to be a final determination of value. The approved appraisal value is the minimum floor value for establishing the amount of just compensation offered to the owner at the initiation of negotiations. The negotiations between a willing seller and a willing buyer will sometimes set a price that is higher than the appraisal, and this marketplace value must be considered with the appraised value in establishing the reasonable limits of federal assistance.

When the project sponsor believes the negotiated price is an adequate indication of market value, yet it is higher than the approved appraised value, a detailed and well documented statement on this difference with all pertinent appraisal documents should be submitted. This statement should explain why the appraisal may not reflect the true value and what steps the applicant took to establish the true value. This statement should include a history of negotiations documenting discussions of price between the landowner and the applicant. The statement may indicate the importance of the proposed purchase as opposed to other alternative sites, or other justification regarding the need to purchase the subject property at a higher amount. If the Federal Government agrees the negotiated price represents a reasonable estimate of the property value, that amount can be eligible for assistance if sufficient funds are available in the grant. This statement is to be submitted with the billing for the property.

Sometimes a seller or purchaser desires to spread payments for land over several years. "Contract Sales", where installment payments are made over a specified period of time at the end of which the buyer receives title are acceptable for RTP projects provided the entire purchase will be completed within the project period (usually 2 years). The risk is in the event the periodic payments are not paid when due, the seller could foreclose and regain complete ownership of the land. Thus, the federal and local funds would have been spent with nothing to show for the expenditure. If the applicant fails to complete the purchase, the federal funds invested must be returned or another replacement site acquired. Reimbursement of costs incurred can be made as the land is purchased in installments.

A suggested alternative is to subdivide a tract into smaller parcels. The applicant may acquire full title to each parcel individually and receive reimbursement as each is acquired. This does not jeopardize the investment of public funds.

Assistance for separate parcels may need to be applied for in different grants over a period of years, depending upon the cost and timing of the acquisitions.

Condemnation

Condemnation is not allowed with the Recreational Trails Program. All land acquired with RTP monies must be acquired from a willing seller.

Land Donations

A donation of land from a private landowner can be used as part or all of the sponsor's share of the project costs, provided the donor did not acquire the land with federal funds. The donation may be used to match the federal funds for: (1) the purchase of land at the

same site, (2) the development of facilities on or at the same site as the land gift, or (3) the purchase of land or construction of facilities at other sites serving a similar purpose. A letter of intent to donate the property to the applicant from the landowner must accompany the project application.

The date when title to a land gift is transferred to the applicant is critical to the eligibility of the land value for a match. The earlier section in this chapter on timing for land donations should be clearly understood.

A written offer to purchase and a statement of just compensation are not necessary when acquisition is by full donation. The legal act of donation itself precludes the necessity for these documents which relate only to negotiated purchases and bargain sales.

The appraisal must be paid for by the project sponsor. Appraisals provided by landowners may not be used as the basis for federal assistance.

For the project application, one copy of either the appraisal or letter appraisal must be submitted. If a letter appraisal is submitted, it is recommended the appraiser providing the statement be hired to complete the full narrative appraisal, if the project is approved. Since a land donation constitutes all or part of the local matching share of a project's costs, it is important that the land value be established early in advance of application to enable the applicant to take full advantage of the donated land value and at the same time prevent the project sponsor from having to provide additional local funds if the land value is later found to be less than anticipated.

Once the appraisal is approved, federal approval is obtained, and the property is transferred the donated land value will be credited towards the grantee's matching share. If the match has been met, then the development costs will be reimbursed at 100%.

Bargain Sale

In some cases, a landowner may be willing to sell real property for less than the full market value, but is not able to donate the entire value of the land. A bargain sale involves the purchase of a tract of land. The difference between the sale and the appraised fair market value is considered donated land value. For an RTP project, federal reimbursement may be provided for the purchase part of the acquisition. The fee simple donated value in a bargain sale may be used to match the purchase of the same tract, or other land purchases and facility construction, similar to lands which are 100% donated.

The appraisal requirements for full purchases also apply to bargain sales. Under the Uniform Relocation Assistance and Real Property Acquisition Policies Act, the applicant is required to offer the landowner the full appraised value of the land. When the lesser sale price is negotiated the owner must sign a Waiver of Right to Just Compensation. A waiver of entitlements under the Act by property owners or displaced person will be approved only in fully documented cases where the reasons for the waiver are explained. The purpose of the Act is to ensure each displaced person and property owner receives a just and equitable settlement through the purchase price and payment of relocation expenses. Few landowners would involuntarily accept an amount less than their entitlement, although in some instances landowners may be willing to accept less than the appraised value for their property. In such cases, the landowner must sign a waiver which includes the following information:

1. That the owner has been fully informed of his or her rights and benefits under P.L. 91-646.
2. That the acquiring agency has provided a written Statement of Just Compensation and Offer to Purchase for the appraised property value (state the amount).
3. That the owner is satisfied with the negotiated price, even though it is less the appraised fair market value, and/or
4. That he or she elected to waive entitlement to the relocation benefits (this would include the dollar amount by category of moving expenses, payments for replacement housing, incidental expenses, etc.).
5. A statement setting forth the reasons for accepting a lesser amount than the appraised value offered by the local agency or for waiving relocation benefits.

A sample waiver is included in the Appendix. This statement must accompany the billing for the property along with the Statement of Just Compensation and Offer to Purchase.

Relocation Assistance

Relocation Benefits

A resident or residential business or farm property to be acquired may be eligible for relocation assistance. This resident, who can be either a landowner or a tenant, may be reimbursed for expenses incurred in moving from the purchased property to a new dwelling. The purpose of providing relocation benefits is to enable a property resident to move to a new residence or business location without undue personal hardship.

When an applicant determines the land proposed for purchase may involve relocation, ADECA Recreation Programs MUST be contacted for brochures, forms, and guidelines for procedures and determining costs. It is essential that landowners be informed of relocation benefits. They must also receive payment unless they voluntarily waive their benefits.

Development on Land Acquired With Federal Assistance

Future Development Conditions

It is not necessary that the future development be carried out with federal assistance or the proposed unassisted development receives prior approvals so long as it is in accord with the purposes for which the acquisition was made. Once the land is acquired with RTP assistance, it must always be used for public trail purposes.

On land where federal funds were reimbursed on the acquisition, certain regulations for the development of facilities must be followed. All facilities must be accessible to persons with disabilities. Chapters 3 and 6 explain other development requirements, such as state and federal permits and approvals, which need to be obtained for construction projects.

Summary of Steps to Take in Negotiating with Landowners

Purchases and Bargain Sales:

1. Make contact with the landowner regarding availability of the property and permission to appraise. Obtain information on the owner's and any tenant's eligibility for relocation benefits.
2. Have the land appraised according to the Uniform Appraisal Standards for Federal Land Acquisitions by a qualified appraiser. The landowner must be given the opportunity to accompany the appraiser.
3. Submit the appraisal for approval by ADECA Recreation Programs and the Federal Government. Be sure to include a check in the amount of \$275.00 made payable to the Alabama Department of Transportation to cover the cost of the required appraisal review.
4. Offer to purchase the property for the approved appraised value using the Statement of Just Compensation and Offer to Purchase in the Appendix. Also inform the landowner and any tenants of their eligibility for relocation benefits.
5. Negotiate the selling price.
 - If the owner wishes to donate part of the land's value, the acquisition will be a bargain sale and the owner needs to complete the Waiver of Right to Just Compensation in the Appendix. Similarly, if a person to be relocated does not want reimbursement for relocation expenses, that person needs to sign a similar waiver for these benefits.
 - In cases where the sale price is negotiated higher than the appraised value, a Statement of Difference in Value may be submitted to ADECA Recreation Programs as justification for the higher price. Assistance may be provided for the increased amount, but is not guaranteed.
6. An option may be obtained once the price has been determined for a negotiated purchase.
7. Federal grant approval and CE must be received by this point.
8. Obtain title insurance or an abstract opinion, and then title to the land. The project sponsor pays for the land, closing and incidental acquisition costs and relocation benefits.
9. Record the deed with a clause stating that the land will remain for public trail use in perpetuity.
10. A reimbursement request for the federal share of the acquisition costs may then be submitted to ADECA Recreation Programs.

Donations

1. After the landowner offers to donate the property, obtain permission to appraise and information on the owner's and any tenant's eligibility for relocation benefits.

2. Have the land appraised according to the Uniform Appraisal Standards for Federal Land Acquisitions, with the donor being given the opportunity to accompany the appraiser.
3. Submit the appraisal and a check in the amount of \$275.00 (made payable to the Alabama Department of Transportation) for ADECA Recreation Programs and federal approval.
4. Submit the grant application to ADECA Recreation Programs. Do not accept title prior to application deadline without special permission (Waiver of Retroactivity). If the project is selected to receive a grant, title to the land should not be transferred to the project sponsor until federal grant approval and CE (Categorical Exclusion).
5. Obtain title insurance or an abstract opinion, the property deed, and pay for closing an incidental acquisition costs and any relocation benefits.
6. Record the deed with a clause stating the land will remain for public trail use in perpetuity.
7. A reimbursement credit request for federal funds based on the land gift may then be submitted to ADECA Recreation Programs.

Chapter 6

DEVELOPMENT PROJECT CRITERIA AND PROCEDURES

Development Projects

Selecting Development for a Grant Application

A development project may consist of new construction or renovation of an improvement or group of related improvements designed to provide facilities for trails. A project may include the complete or partial development of one area, or it may include a series of identical developments on several separate sites along a linear corridor. In either case, the project must be a logical unit of work to be accomplished in a specified period of time. Projects should meet the needs of local citizens, be attractive, safe, compatible with the site's natural features, and accessible to people with all abilities.

Site Location, Control and Tenure

Facilities may be built on sites owned by the federal and state governments, park and recreation boards, land owned by not-for-profit agencies or a city or county. If the land is owned by another city or county department or local governmental unit, title must be transferred to the applicant. In some instances memorandum of agreement or a use agreement may be allowable if approved by the state.

Project sites may be conveyed by easement to the applicant from another public entity or the private sector. Easements must be for a minimum of 25 years.

According to federal regulations, an applicant that is going to develop trail facilities will have to enter into an agreement with the State concerning the use, operation and maintenance of the site. The agreement will state that the project sponsor must keep the facility open for public use and maintain it according to federal standards.

Eligible Types of Development

Development projects eligible for assistance include, but are not limited to, the following types of facilities which provide public use of trail facilities: motorized trails, non-motorized trails, water trails, multiple use trails, rail trails, trail crossings, signs, trailside and trail head facilities, and other support facilities.

Eligible Development Costs

Consultant Services

Consultants for projects may be hired through the competitive, qualification-based selection process. A scope of services desired by the applicant needs to be prepared and normal advertisement procedures followed. The advertisement/request for qualifications must identify the evaluating criteria the local sponsor will use. The local sponsor must request proposals from firms and interview several of those submitting proposals. Firms are to be selected objectively based on their professional qualifications, experience and quality of past performance. A written explanation of the process used in hiring a consultant must be submitted to ADECA Recreation Programs with the contract. Agencies should consult with their attorney regarding hiring a consultant according to the Code of Alabama §41-16-72.

Federal regulations do not authorize payment of fees for consultant on a "percent of the construction contract" basis. The consultant may be paid according to: (1) fixed price, (2) per hour, (3) per diem, or (4) actual expenses incurred. The contract must specify the payment method. No consultant fee may be paid to any federal, state, or project sponsor's employee unless such a payment is specifically agreed to by ADECA Recreation Programs. The maximum amount allowed for all engineer and/or architect fees is 10% (ten percent) of the total construction cost. The maximum amount allowed for professional grant administration is 5% (five percent) of the total federal share of the grant.

Typical eligible consultant costs include: project management, feasibility studies, site planning, environmental assessment preparation, cost estimates, archaeological work, construction plans and specifications, and construction supervision. Costs incurred for designing facilities not developed in the project are ineligible. If a consultant is hired after the application is submitted, the project sponsor must notify ADECA Recreation Programs.

Construction

Allowable construction costs include all necessary construction activities, from site preparation (including demolition, excavation, grading, etc.) to the completion of a facility. Construction may be carried out through a contract with a private firm, by use of the agency's own personnel and equipment (force account), or by in-kind contributions. Regulations regarding these three types of construction are explained later in this chapter.

Contract Construction Wages

The program is not subject to the Davis-Bacon Act, so contractors are not bound to construction wage rates established by the U.S. Department of Labor, unless other federal funds subject to the Davis-Bacon Act are used as the local share.

Supplies and Materials

Supplies and materials may be purchased for a specific project or may be drawn from a central stock. The former should be charged to a project at their actual price, less discounts, taxes, rebates, etc. and the latter should be charged at cost under any recognized method of pricing which is consistently applied. Incoming transportation charges are a part of these costs. Eligible project supplies are those needed for the construction of a project. Supplies needed for the operation and maintenance of a facility are not eligible.

Information and Interpretation

Fund assistance may share the costs of providing information directly related to a project, as distinguished from publicity. These may include: signs giving information and directions at the entrances of recreation areas and other necessary places throughout the project site; display boards; dioramas; interpretive facilities for the explanation of items of interest; and other facilities required to explain the site and bring it to public attention.

Methods of Developing Facilities

Development of a project site may be by contract, force account, in-kind contribution, or a combination of these methods. The method(s) which will be used must be indicated in the Program Narrative as part of the grant application. The procedures regarding each of these construction methods are explained below.

Contract

The most common and preferred method of developing an area is by contract because the project sponsor is assured the construction will be completed by a designated date according to predetermined work standards.

All construction associated with a Recreational Trails Program project must comply with Alabama's Public Works Law. Public Works is defined in the Code of Alabama 1975 as:

“The construction, repair, renovation, or maintenance of public buildings, structures, sewers, waterworks, roads, bridges, docks, underpasses, and viaducts as well as any other improvement to be constructed, repaired, renovated, or maintained on public property and to be paid, in whole or in part, with public funds or with financing to be retired with public funds in the form of lease payments or otherwise.”

Public Works contracts apply to construction contracts only and may not be used to purchase materials alone. However, this method must be used when purchasing both labor and materials. State law requires that any public works contract involving an amount greater than \$50,000 be formally advertised with sealed bids and public openings. For contracts less than \$50,000, sponsors must obtain competitive quotes from at least three vendors. Please contact ADECA Recreation Programs prior to awarding any contracts based on this method of procurement.

Local sponsors must inform bidders that federal funds are to be used in the project, and all relevant federal requirements apply. It is preferable to include this information in the bid invitations or in notices released prior to bid invitations.

The federal government requires certain information be included in the specifications for and thus as part of all contracts, and certain documents be filed, for construction for which federal reimbursement will be requested.

Federal Contract Provisions must appear verbatim in the specifications for any contract or purchase in which state contract requirements mandate project sponsors to let competitive open bids. If these pages are not included in the specifications given to bidders prior to bidding, the cost of the resulting construction contract will not be eligible for reimbursement.

If an architectural or engineering firm prepares the specifications, make sure their standard contractual statements do not conflict with federal requirements. Examples of conflicts include termination or breach of contract and types and amounts of bonds required. The contracts must be written in such a way that the construction specifications, including the federal requirements supplement, are incorporated into the scope of the contract. Failure to follow these procedures will jeopardize reimbursement for the project.

A copy of all plans and construction specifications, including the addenda must be submitted to ADECA Recreation Programs for approval prior to advertising for bids. In addition, copies of the bid tabulation summary sheet and all construction contracts must be submitted within 15 (fifteen) days after award of the contract. Any proposed change orders to the contract must first be cleared with ADECA Recreation Programs before the change order is negotiated.

The contract award should be made to the individual or firm whose bid is most advantageous to the local sponsor. Contracts must be awarded to responsible contractors or suppliers who have the ability to perform successfully under the terms and conditions of the contract. Consideration should be given to such matters as contractor integrity, record of past performances, financial and technical resources, and accessibility to the necessary resources.

When the local sponsor considers the lowest bidder unqualified, incapable, or not responsible, the next lowest bidder may be awarded the contract. If a no-bid contract is awarded by the local sponsor, or a contract is awarded to other than the lowest bidder, a letter of justification for this action must be sent to ADECA Recreation Programs with the bid summary. Federal approval must be obtained prior to awarding the contract in these two cases.

IMPORTANT: The following actions require Prior Approval of ADECA:

- A. Awarding a contract to other than the low bidder.
- B. Negotiating a contract with all bidders to obtain an acceptable price when original bids obtained by formal advertising are unacceptable and will be rejected.
- C. Proceeding to competitive negotiation or non-competitive negotiation to purchase any materials or services other than consultant services. (Consultant services can be procured through competitive qualification-based negotiation procedures without prior approval).
- D. Awarding a contract when only one bid is received.

Force Account

The second method which may be utilized to develop a project site is a force account. A local sponsor may choose to use its own employees, machinery, or materials in the development of facilities, rather than contract with an outside company.

Labor

If a local sponsor plans to claim force account costs, this intent must be stated in the application documentation and in the explanation of any subsequent project amendment requests. The Appendix contains a Recreation Programs Timesheet which is completed by the laborer and their supervisor. This statement is needed to certify the rate and number of hours the laborer worked on the project.

Materials

Project sponsors must comply with the state bid law which requires competitive bidding of procurements in excess of \$7,500. No single vendor can be paid for purchases totaling more than \$7,500 using small purchase procedures.

The primary objective of State and Federal bid regulations is to promote maximum free open competition. With this in mind, small purchases must be solicited from at least 3 (three) vendors. Each small purchase should be supported by a tabulation for your file containing:

- Name of official securing the quote
- Item specified
- Vendor name
- Salesperson contacted
- Price quote
- Phone number
- Date

Project sponsors may also utilize contracts provided by U.S. Communities. For more information visit their site at <http://www.uscommunities.org/>

In-Kind Contribution

Facilities may also be developed by in-kind contributions which might consist of labor, equipment, materials and supplies donated to a local sponsor by private organizations or individuals.

In-kind contributions are eligible in a project only to the extent that there are additional development costs to be met by the federal assistance requested for that project. These must be fully described and explained in the project proposal.

ADECA Recreation Programs must agree on the local sponsor's method of valuing in-kind contributions of goods and services before the project approval for such contributions to be considered as part or all of the agency's matching share. Unexpected donations which occur after project approval may also be eligible for reimbursement if requested by the local sponsor and agreed to by the State. The procedures for determining the value of in-kind contributions from private sector sources are as follows:

1. Valuation of Volunteer Services. Volunteer services may be contributed by professional and technical personnel, consultants, and skilled or unskilled labor. Each hour of volunteered service may be counted as part of the local sponsor's matching share if the service is an integral and necessary part of an approved project. The records of in-kind contributions of personnel services must include time sheets containing the signature of

the person whose time is contributed and of his or her supervisor verifying the record is accurate. The Recreation Programs Timesheet in the Appendix may be used for this purpose. The value for a person donating services should be figured at the same rate as that paid to an entry level laborer. Sponsors must contact the clerk-treasurer and ask for a letter specifying the amount paid to general laborers, and from that information calculate value of the donated service.

If the donor is professionally skilled in the trade or service to be provided, such as an electrician installing the electrical wiring or a plumber connecting the water supply, the rate this individual is paid for performing this trade may be claimed for matching assistance. A letter from the donor's employer, on company letterhead, must document this rate. The method for determining donated labor must be calculated in the project application and documentation substantiating the wage rate to eventually be claimed must be provided.

2. Valuation of Donated Supplies, Materials, and Equipment. The value of donated supplies, materials and equipment which are permanently acquired should be reasonable and not exceed the current market prices at the time they are purchased for the project. Records of in-kind contributions of supplies and materials must indicate the fair market value by listing the comparable prices from other vendors or the amount paid by the donor.

3. Valuation of Loaned Equipment. Occasionally, equipment used in the construction of a facility will be loaned to the project sponsor. The sponsor may claim the value of the equipment use as an in-kind contribution to the sponsor's share of project costs. Force Account (Public) equipment rental rates or In-Kind Donated (Private, In-Kind) equipment rental rates will be established by ADECA using the Equipment Rental Rate Blue Book. In order for ADECA to establish a rental rate, the following documentation must be submitted along with your request for a determination: You will find the rental rate form in the Appendix.

a. Equipment Make, Model and Series - List the manufacturer, model and series.

b. Year of Equipment - Year the item of equipment was manufactured.

In order to receive reimbursement, project sponsors must supply documentation signed by the donor stating: the date(s); number of hours used per date; the type and model number of the equipment used; price per hour or day; and total cost claimed as a donation. Use the Recreation Programs Timesheet found in the Appendix.

4. Valuation of Other Donations. Other donations received by the project sponsor for and in direct benefit to the development of the project may be accepted as part of a local agency's matching share, provided that the values of these donations are adequately supported and permissible under the law. Such donations must be reasonable and properly justifiable.

Other Considerations Regarding Development

In addition to the types of development costs, and methods of developing facilities, there are other factors which must be considered for a trails project. These considerations are explained below.

Overhead Utility Lines

Overhead utility lines are a safety hazard and a major detractor from the natural quality of many outdoor recreation areas and should be eliminated where possible. All new electric wires under 15 kV and all telephone wires must be placed underground, whether installed during project construction or at some time in the future. Similarly, the LWCF/RTP program will only participate in the purchase and installation of concrete or metal utility poles. Existing wood poles should be replaced with either concrete or metal whenever possible. Any exceptions must be requested in writing and justified by experts.

Construction of Facilities for Persons with Disabilities

The Federal Government requires all facilities developed with assistance from the program must be designed in conformance with the Architectural Barriers Act of 1968. The Act ensures structures financed with Federal funds are designed and built to be accessible to persons with disabilities.

The Access Board is an independent Federal agency devoted to accessibility for people with disabilities. It operates with about 30 staff and a governing board of representatives from Federal departments and public members appointed by the President. Key responsibilities of the Board include:

- Developing and maintaining accessibility requirements for the built environment, transit vehicles, telecommunications equipment, and for electronic and information technology.
- Providing technical assistance and training on these guidelines and standards.
- Enforcing accessibility standards for federally funded facilities.

Board publications, including its guidelines and standards, can be downloaded from their website www.access-board.gov or they may be requested from:

The Access Board
1331 F Street, NW, Suite 1000
Washington, DC 20004-1111
(800) 872-2253 (v) (800) 993-2822 (TTY)
email: info@access-board.gov

Project sponsors should consider the needs of persons with disabilities in every aspect of a facility's design. Most of the adaptations are relatively inexpensive, especially if designed into the facility prior to initial construction. Some examples included are:

1. Curb cuts or ramps which provide easy access to sidewalks.
2. Gradually-sloped, hard-surfaced walkways leading to all facilities commonly visited by site users.
3. Benches, picnic tables, water fountains, public telephones and similar facilities designed to permit use by persons with disabilities and are ACCESSIBLE. See <http://www.access-board.gov/outdoor/outdoor-rec-rpt.htm> for more information.
4. Hard-surfaced parking spaces with signs reserving them for persons with disabilities.

5. Firm and stable trail surfaces with proper slant and slope of trail.

Support Facilities Only

Projects which contain support facilities only will not usually be eligible for assistance through the RTP program. Parking lots, restrooms, and similar support facilities may be eligible at sites where trail facilities currently exist. The eligibility of these types of projects will be decided on a case by case basis.

Summary of Construction Contract Procedures

The following steps apply to all construction which by state and federal law must be competitively bid.

1. Prepare the plans and specifications. Include the Federal Contract Provisions and make sure all facilities are designed for handicapped accessibility.
2. Submit the plans and specifications for review to ADECA Recreation Programs.
3. Advertise for bids after all approvals are received. Bid advertisements must include a statement informing bidders that federal funds are being used on the project, and contractors will be required to comply with Federal Contract Provisions included in the specifications.
4. Open bids, prepare the bid tabulation sheet and award the contracts. If a firm other than the lowest bidder is to be selected request that ADECA Recreation Programs obtain federal approval prior to signing the contract. An explanation for accepting other than the lowest bidder must accompany the written requests. If the lowest bidder is to be selected, award and sign the construction contract. Send copies of the bid advertisements (proof of publication), bid tabulation sheet (summary of bids), and signed contracts to ADECA Recreation Programs.
5. Notice to Proceed. If the contractor is issued a "notice to proceed", send a copy of the notice to ADECA Recreation Programs.
6. Proceed with Construction. When approval has been given by ADECA, you may proceed with the construction. If any change orders are to be given, request approval in advance and then send a copy of all such changes to ADECA Recreation Programs. ADECA will conduct progress inspections of the development.
7. Project Completion. When the final billing is prepared, submit the Post Construction Certificate and "as built" site plans. ADECA Recreation Programs will conduct a final inspection of the project before processing the final reimbursement and closing out the project. Refer to Chapters 7 and 8 for final billing and close-out procedures.
8. Project Sign. It is required that a permanent project sign acknowledging the Recreational Trails Program be posted at the project site. Please refer to the wording and specifications found in the Appendix.

Chapter 7

BILLING FOR FEDERAL REIMBURSEMENT

REIMBURSEMENT

The grant will be made available to the project sponsor on a reimbursement basis. In order to receive the money reserved for the project, a billing must be submitted to ADECA Recreation Programs. ADECA will process this information and transmit the billing request to the U.S. Department of Transportation. It takes approximately four to six weeks for a reimbursement to be transmitted back to the project sponsor. A W-9 Form must be completed before a reimbursement can be issued.

INCURRED COSTS

To be eligible for matching assistance, the costs must be incurred within the project period. The local sponsor may not begin development until the project has been approved by the U.S. Department of Transportation. The only costs incurred before project approval eligible for retroactive reimbursement are those architectural, archaeological, and grant application preparation fees which were documented as pre-agreement costs in the project application. Other pre-agreement costs are not eligible for matching assistance.

Any costs incurred after the project has expired are also ineligible for assistance. Items added to a project by a change in scope amendment must be approved before costs may be incurred for the item.

INCOME FROM PROJECT SITES

Income earned by the project sponsor during the project period from sources, other than the intended use, will either be used to reduce the total project cost or to do additional development at the site. Examples of such income include the sale or rental of structures, and the lease or rental of the trail. An explanation of all anticipated types of income must accompany the project application.

According to federal regulations, user fees can be instituted to cover operation and maintenance costs only and not to produce extra revenue for the sponsor agency.

If the project sponsor feels it is necessary to collect a user fee for the facilities built in this project, a complete schedule containing all charges to be assessed against those using the facilities must be submitted for approval. Any net revenues accruing from the operation of the facilities must be separately accounted for and reserved by the project sponsor for the future operation, maintenance and/or expansion of the facility or, with ADECA's approval, for construction of other recreational trail or trail head facilities. The agency must submit to ADECA Recreation Programs a yearly summary throughout the project period of fees collected and an explanation of how they were expended.

BILLING SUBMISSIONS

Separate billings must be submitted on each project for which a sponsor has a grant. These billings should be numbered consecutively for each project, beginning with number one. The Final Billing must be the last consecutively numbered request, followed by the word "FINAL." The federal amount of each billing should total at least 10 percent of the grant amount, with the exception of the final billing.

FINAL BILLINGS

Billings may be submitted for up to 95 percent of the project costs prior to the final billing. Reimbursement for 5 percent of the project cost is withheld until the project is completed and a final inspection is made by ADECA Recreation Programs staff.

One copy of the signed Post Construction Certificate (found in the Appendix) must accompany the final billing for development projects. This form is completed by the supervising architect or engineer on the project. If the project did not involve a consulting architect or engineer, then the county or city engineer should inspect the project and sign the Post Construction Certificate. The final billing should be submitted to the Division within 60 days of the project completion or expiration, whichever comes first. Proper encumbrance language should be attached to the deed and submitted with the final billing information.

Project sponsors should expect the final billing to take longer to process than progress billings, and should arrange their financing accordingly. An "as built" site plan which clearly delineates the completion date, dimensions of the site, location of federally assisted development must be submitted with the final billing. This site plan will serve as a permanent record of federal assistance at the site.

BILLING DOCUMENTATION

ACQUISITION COSTS

The total reimbursement for real property acquisition is usually accomplished with one reimbursement request. See part 6 for general billing instructions and forms. The following documentation must be submitted to ADECA in support of the billing:

A. Evidence that Acquisition Steps were followed (in compliance with Title II of P.L. 91-646).

1. Copies of evidence that the property owner was given the opportunity to accompany the appraiser on his inspection of the property. (Preferably a copy of actual letter with signed Postal receipt.)
2. Copy of a statement of Just Compensation as presented to landowner.
3. Copy of written offer to purchase at appraised value.
4. If applicable, a copy of Statement of Differences in value (applies to land sold at more than appraised value).
5. If applicable, copy of Waiver of Right to Just Compensation (applies only in cases where landowner is willing to sell at less than appraised value).

B. Copy of evidence of compliance with Title II of P.L. 91-646 involving relocation of persons residing on lands purchased.

C. Copy of Appraisal Report, including:

1. Title opinion - opinion must state that project sponsor has fee simple title to the acquired property. The opinion must cover the period of time through the date appearing on the warranty deed.

2. Five Year History of Conveyance.

D. Copy of Deed with Section 6(f)(3) Limitation of Use Provision recorded thereon.

E. Copy of proof of payment (copy of front and back of canceled check, closing statement, etc.).

Copy of completed checklist for Acquisition reimbursement documentation. If any part of the documentation was submitted with the Application, so indicate on the checklist.

CHECK LIST FOR ACQUISITION BILLING DOCUMENTATION

The following documentation must accompany requests for reimbursement of costs incurred on land acquisition:

1. Documentation that the property owner was offered the opportunity to accompany the appraiser
2. If applicable, proof of relocation assistance provided to displaced persons (Uniform Relocation Act-Public Law 91-646)
3. Statement of Just Compensation
4. Written offer to purchase at appraised price
5. If applicable, Statement of Difference in Value
6. If applicable, Waiver or Right to Just Compensation
7. Appraisal Report
8. Title Opinion
9. Five Year History of Conveyance
10. Proof of Payment
11. Deed with "Limitation of Use Provision" recorded thereon
12. Completed copy of this Checklist

--DO NOT SEND ORIGINALS--

DEVELOPMENT COSTS

A billing for development costs MUST include the following items:

1. Invoices. One copy of invoices from firms or individuals performing work or supplying materials or equipment for the project. The project name and number should be specified on invoices. The eligible costs should be identified if the invoices include items which are not a part of the project.
2. Cancelled Checks. One copy, front and back of the cancelled checks corresponding to the claim voucher. If the check includes payments of ineligible items, the amount included in the billing should be written on the check and labeled as eligible costs.
3. Force Account Information. If force account costs are claimed in a development billing, the following types of information are required.

Payroll. One copy of the agency's payroll for the time period which force account costs are being claimed. The names of those individuals for which force account costs are claimed should be circled or underlined.

Cancelled Checks. One copy, front and back, of the cancelled checks corresponding to the force account items. The amount paid for eligible costs should be indicated on the checks by writing across the checks "Eligible Costs" and the amount.

Force Account Labor Form. One copy of the form, which includes a statement that the individuals, for which force account costs are claimed, actually performed the listed work. This statement should be signed by both the employee involved and the park superintendent, appropriate city or county official, or agency director.

4. In-kind Contributions. The following documentation is required for each of these types of contributions:

Donated Labor. One copy of the Recreation Programs Timesheet (in the Appendix) must be completed for each person donating labor for construction and signed by the donor and agency supervisor. The per hour value of the labor donations will usually have been documented in the project application by clerk/treasurer's and/or employers' letters as explained in Chapter 2. If a skilled construction person donates time who has not previously provided evidence of his or her per hour wage rate, it should be submitted with the billing.

Donated Materials. A letter from the donor, which briefly describes the items and indicates they were given for the project, must be provided. To establish the value of the gifts, quotations of prices for similar materials should be provided from two local commercial suppliers, the lower of the two quotations will establish the donated value. Donated materials from a federal source are ineligible as a cost share.

Donated Equipment. A letter from the donor, which briefly describes the equipment and its use in the project construction, must be submitted. For equipment to be installed at the site, price quotations from suppliers of similar equipment will be the value for billing purposes. In the case of construction equipment, some types of equipment will be valued on a per hour rate described in Chapter 6. A copy of the completed Equipment Rental Rate Form should be included in the billing with appropriate equipment and rate circled. The donor's letter for construction equipment needs to list the dates, hours and types of work performed for the project. Donated federal equipment cannot be used as a cost share.

Donated Cash. Since these contributions are used to pay expenses for a project, the regular payment documentation suffices for cash gifts.

BILLING ASSEMBLY

To speed the billing process, the billing documents should be compiled in an orderly manner. One copy of the completed and signed Reimbursement Request Form, cancelled checks, and invoices are required. It is recommended the invoice and cancelled check for each payment be stapled together separately, along with other applicable construction documents as outlined earlier. For donated elements of the project, each contribution should be listed on the billing form and the supporting evidence of value and donation indicated above should be stapled together separately.

These supporting materials for payments and gifts should be compiled into one stack with the billing form on top. A transmittal letter should identify any items on claims that were deducted due to ineligibility and provide a short summary of the project's status to date. Although a claim or invoice may be familiar to the project sponsor, it may be highly questionable for processing by the State. Claims or invoices marked simply "paint", "lumber", "plumbing supplies" or claims which are illegibly written will be returned for further explanation. Construction materials need to be properly identified with a project item such as "paint for signs". Failure to identify all eligible costs may result in billing process delay. In most cases, questionable billings will be returned for clarification.

Travel expenditures associated with RTP projects and incurred by sponsor employees are eligible for reimbursement. In those instances where travel expense may be warranted, State of Alabama Statement of Official In-State/Out of State Travel expense statements must be included in the project file. The statement must clearly indicate the extent and purpose of the travel and computation of the costs involved. The allowable expenditures must be consistent with the travel regulations of the sponsor and approved by appropriate supervisory personnel.

One copy of the travel expense statement or voucher along with proof of payment is required for reimbursement of travel expenses. A copy of each form may be found in the Appendix.

STATE PROCESSING OF BILLINGS

Once the billing is received by ADECA Recreation Programs, all the documentation is reviewed. This process usually takes between seven and fourteen days, after which the reimbursement is requested from the Federal Government. This transaction takes approximately two weeks. Once the money is transferred from the federal government, the state will issue a check payable to the project sponsor. The entire process will take approximately 4 to 6 weeks.

BILLING CHECKLIST

The project manager must review the billing to make sure it has been properly assembled. This checklist has been developed to aid this review.

- ____ 1. One copy of the completed and signed Reimbursement Request.
- ____ 2. One copy of the invoices for development costs.
- ____ 4. One copy, FRONT AND BACK, of cancelled checks.
- ____ 5. One copy of the force account information, if applicable.
 - ____ a. Payroll
 - ____ b. Cancelled Checks
 - ____ c. Recreation Programs Timesheet
- ____ 6. One copy of the in-kind contribution information, if applicable.
 - ____ a. Donor's Letter or Donated Labor Form
 - ____ b. Evidence of Value
- ____ 7. One copy of the Post Construction Certificate, if a final billing.
- ____ 8. A short summary of the project's status to date.

Chapter 8

PROJECT COMPLETION & FUTURE RESPONSIBILITIES

PROJECT COMPLETION

The date of completion is the date when all work in a project is completed, or the date the project expires, whichever comes first. The project sponsor should submit the final billing for the project within sixty days of the date of completion.

Upon notification of project completion, ADECA Recreation Programs staff will conduct a final inspection of the project site. An “as built” site plan must be prepared and submitted along with other closeout documents. The plan must identify the work funded by the grant, completion date, and boundaries of the site. In a few cases, there may be no changes from the site map submitted with the application other than labeling it with the completion date.

This map becomes part of the permanent records of ADECA Recreation Programs. It is also to be kept permanently in the project sponsor’s public property records and available for public inspection with the project agreement. The site must be identified as having been developed with assistance from the Recreational Trails Program, and the project must remain open to the public for the useful life of the facility if RTP monies were used for development and for perpetuity if RTP monies were used for land acquisition.

PERMANENT SIGN

A sign acknowledging the program to be erected and permanently displayed at the project site upon completion is required. The sign should give adequate recognition to each agency involved in the development of the particular project site and indicate the project was a cooperative project which was partially funded by the Recreational Trails Program. The cost of constructing the sign is eligible for matching assistance and should be included within the cost breakdown in the project application. An example is included in the appendix.

RETENTION OF RECORDS FOR AUDIT

In addition to the copies submitted to the State, all construction plans, specifications, bid advertisements and tabulations, contracts, and change orders must be retained by the project sponsor for a period of three years, commencing after the final reimbursement has been received, or until audit findings have been resolved. All accounting records and project data are subject to the State and Federal audit.

Authorized representatives of the U.S. Department of Transportation, Office of Inspector General, and ADECA reserve the right to audit, examine, or inspect accounts, books, documents, and any other pertinent records involving operations and transactions relating to any RTP projects. The sponsor shall maintain such materials for a period of three years following receipt of final payment or until a State/Federal audit has been satisfactorily

completed. The material shall be maintained beyond the required three-year period if audit findings have not been resolved.

In the event that a final audit has not been conducted prior to the close-out of your project, the state retains the right to recover disallowed costs from the sponsor that may result from the final audit or other reasons.

In addition, one copy of each regular annual audit in which a RTP assisted project is a component must be submitted to the ADECA Audit Section. Be sure to inform independent CPAs or Public Accountants of this requirement and the ADECA Audit Policy requirements at the beginning of the audit process in order to avoid potential additional audit costs.

INSPECTIONS

Upon project completion, a final inspection is made by ADECA Recreation Programs prior to the authorization of the final reimbursement. Completed projects will be inspected periodically by ADECA Recreation Programs. Copies of this report will be sent to the project sponsor. These inspections are made to ensure that: the site is being used for the purposes intended; the site is attractive and properly maintained; the area is accessible and open to the general public; the site has a Recreational Trails Program sign; and there appears to be adequate staff to ensure proper safety and servicing of the facilities. It must be emphasized that neither the State of Alabama nor the Federal Government desires to become involved in the daily operation and maintenance of a funded facility. The operation and maintenance requirements are no more restrictive than those required by the local taxpayers or users for the facility they helped to finance.

OPERATION AND MAINTENANCE

Property developed with federal assistance must be properly operated and maintained for general public use. The site should appear attractive and inviting to the public. Proper sanitation and sanitary facilities should be maintained in accord with applicable health standards. The site should be kept safe for public use. Buildings, roads, and other improvements should be kept in reasonable repair throughout their lifetime to prevent undue deterioration and to encourage public use. Evidence of vandalism should be repaired as quickly as possible.

PUBLIC USE AND FEES

The facility should be kept open for general public use at reasonable hours and times of the year according to the type of area or facility. Property developed with federal assistance shall be open to entry and use by all persons regardless of race, religion, color, sex, national origin, age, disability, or place of residence.

The site cannot be restricted for use only by community or county residents. If trails are partially funded by local tax revenues, a higher user fee may be charged to out-of-city or out-of-county residents. Where there is no charge for residents, but a fee is charged to nonresidents, nonresident fees cannot exceed fees charged for residents at comparable State or local public facilities. Reservations, membership or annual permit systems available to residents must also be available to nonresidents and the period of availability must be the same for both.

If fees are charged to use federally funded sites or facilities, the agency must submit a complete schedule of all charges to be assessed for those using the facilities to ADECA Recreation Programs.

Project sponsors may impose reasonable limits on the type and extent of use of areas and facilities developed with federal assistance when such a limitation is necessary for maintenance or preservation. Thus, limitation may be imposed on the number of persons using an area or facility for the type of users. All limitations shall be in accord with the applicable grant agreement and amendments. Permits for the use of facilities must be in accord with federal nondiscrimination provisions.

FUTURE NONDISCRIMINATION AUDITS

The Department of Transportation, Office for Equal Opportunity periodically conducts desk and on-site audits of agencies which have received federal assistance. The reviews involve compliance with Title VI of the Civil Rights Act and Section 504 of the Rehabilitation Act, as explained in Chapter 3. An audit may take place long after a project has been completed, since grant recipients must comply with the nondiscrimination provisions in perpetuity. Project sponsors are responsible for voluntarily complying with any audit findings which need to be resolved.

RETENTION OF THE SITE FOR THE USE INTENDED

At the time of project approval, the project sponsor will sign an agreement with ADECA concerning the use, operation and maintenance of the facilities developed with federal funds. When a project sponsor feels the facility has reached the end of its useful life, ADECA Recreational Programs must be contacted. The Recreation Programs staff must concur that the facility is obsolete.

This agreement will state that the facilities developed with federal assistance must remain open for general public use and will be operated and maintained according to federal standards. If RTP monies are used for land acquisition or development on sponsor-owned property, the land must remain in public trail use for perpetuity. If RTP monies are used for development on easements or leased land, the site and facility must remain in public trail use for at least 25 years.

FUTURE RESPONSIBILITIES

Any agency whose recreational facilities have been funded in part with RTP funds (acquisition or development) have accepted the obligation to retain, operate, maintain, and use those facilities and areas according to State and Federal requirements.

Rules and regulations are imposed on each area and facility for which assistance is obtained from the RTP, regardless of the extent of participation of the Fund. Where assistance is provided for acquisition, the entire park or area involved, including existing development if present, is subject to the rules and regulations set forth in this section. Where development is funded, all land within the project boundary must be managed in accord with LWCF/RTP regulations.

Property which is acquired or developed with RTP assistance must be retained and used for public trail use. No change in the purpose and use of these funded outdoor trails can

be made unless approved by the Secretary of the Department of the Interior. (See 36 CFR Parts 59 and 72)

Violations of retention and use requirements generally occur in the following four situations:

- A. Property interests are conveyed for non-public outdoor trail use.
- B. Non-outdoor recreation trail uses (public or private) are made of the project area, or a portion thereof.
- C. Non-eligible indoor facilities are developed within a designated RTP project boundary.
- D. Public recreation trail use of property acquired or developed with RTP assistance is terminated.

Limitations may be imposed upon the type and extent of use of areas and facilities funded by the RTP when such limitations may control the number of people using an area or facility, or an area or facility may be limited to one specific type of use which was set forth in the project agreement or amendments (i.e., nature trails for hikers only).

The RTP assisted areas and facilities must be open to all persons, regardless of race, color, religion, sex, or national origin (Title VI, Civil Rights Act of 1964). Discrimination on the basis of residence, including preferential reservation or membership systems, is prohibited, except to the extent that reasonable differences in admission or other fees may be maintained on the basis of residence.

The sponsor shall prominently display in a reasonable number of places, posters that advise the public of program availability and the requirement for non-discrimination. The poster shall also describe briefly the procedure for filing Title VI complaints and note the availability of Title VI information. Posters, entitled "Equal Opportunity is for Everyone," may be obtained from ADECA.

LEASING OF PROJECT SITES

A project sponsor may provide for the operation of a site developed with federal assistance by leasing the facility to a private organization or individual. The project sponsor must irrevocably agree to terminate the lease should public use of the leased facility be restricted.

All lease documents for the operation of RTP assisted sites by private organizations or individuals must address the following:

1. In order to protect the public interest, the project sponsor must have a clear ability to periodically review and if necessary terminate the lease if the terms and provisions of the grant agreement, including standards of maintenance, public use and accessibility are not met.
2. The document should clearly indicate that the leased area is to be operated by the lessee for public trail purposes in compliance with provisions of the Recreational Trails Program and implementing guidelines.

3. The document should require that the area be identified as being open to the public and operated as a public facility in all signs, literature, and advertising and the lessee be identified so the public will not be misled into believing the area is private. Signs should be posted which identify the facility as being open to the public.

4. The lease must include requirements that the lessee comply with Title VI of the Civil Rights Act and Section 504 of the Rehabilitation Act in providing equal opportunity for public use and in the lessee's employment practices. The site must be maintained for access to persons with disabilities under the Architectural Barriers Act.

All leases must be approved by ADECA Recreation Programs prior to their execution.